

FEDERAL REGISTER



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Washington, Thursday, July 7, 1955

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 53—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

FEES FOR GRADING SERVICE

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946 (7 U. S. C. 1622, 1624), and section 520 of the Revised Statutes (5 U. S. C. 511) the provisions prescribing fees for Federal meat grading service in § 53.35a are hereby amended as follows:

1. Paragraph (a) is amended to read:

(a) The hourly rate for grading service shall be \$4.20 per hour with a minimum charge of \$2.10.

2. Paragraph (b) is amended by changing the fees specified therein for grading performed on a weekly contract basis from \$122.40 to \$142.80.

3. Paragraph (e) is amended by changing the fee specified in the second sentence thereof from "the rate of \$3.60 per hour" to "the rate of \$4.20 per hour."

The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of the services, such as Federal meat grading service, rendered under its provisions. What such cost is and the fees necessary to cover it are matters wholly within the knowledge of the Department of Agriculture. It has been determined that the fees for Federal meat grading service must be increased as provided for herein to cover the cost of the service. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found that notice and other public procedure with respect to the changes in fees provided by this amendment are impracticable and unnecessary and good cause is found for making such amendment effective less than 30 days after its publication in the FEDERAL REGISTER. This amendment shall become effective at 12:01 a. m., July 17, 1955 with respect to all Federal meat grading service thereafter rendered including service under

weekly grading contracts whether theretofore or thereafter made.

(Sec. 205, 60 Stat. 1090, 7 U. S. C. 1624. Interprets or applies R. S. 520, sec. 203, 60 Stat. 1087; 5 U. S. C. 511, 7 U. S. C. 1622)

Done at Washington, D. C. this 1st day of July 1955.

[SEAL] ROY W. LEHNHARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 55-5436; Filed, July 6, 1955; 8:49 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 725—BURLEY AND FLUE-CURED TOBACCO

PROCLAMATION OF NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR 1956-57 MARKETING YEAR

§ 725.701 *Basis and purpose.* (a) Sections 725.701 and 725.702 are issued to announce the reserve supply level and the total supply of flue-cured tobacco for the marketing year beginning July 1, 1955, and to establish the amount of the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1956. The findings and determinations by the Secretary contained in § 725.702 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from flue-cured tobacco producers and others as provided in a notice (20 F. R. 4142) given in accordance with the Administrative Procedure Act (5 U. S. C. 1003).

(b) Since the Agricultural Adjustment Act of 1938, as amended, requires the holding of a referendum of tobacco producers within 30 days after the issuance of the proclamation of the national marketing quota to determine whether such producers favor marketing quotas and requires, insofar as practicable, the mailing of notices of farm acreage allotments to farm opera-

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- Title 15 (\$1.25)
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- Title 26: Part 300 to end and Title 27 (\$1.25)
- Title 50 (\$0.55)

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tors prior to the date of the referendum, it is hereby found that compliance with the 30-day effective date provision of the Administrative Procedure Act is impractical and contrary to the public interest. Therefore, the proclamation of the quota contained herein shall become effective upon the date of publication in the FEDERAL REGISTER.

§ 725.702 *Findings and determinations with respect to the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1956*¹—(a) *Reserve supply level.* The reserve supply level for flue-cured tobacco is 3,081 million pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of

800 million pounds and a normal year's exports of 445 million pounds.

(b) *Total supply.* The total supply of flue-cured tobacco for the marketing year beginning July 1, 1955, is 3,300 million pounds consisting of carryover of 2,025 million pounds and estimated 1955 production of 1,275 million pounds.

(c) *Carryover.* The estimated carryover of flue-cured tobacco at the beginning of the marketing year for such tobacco beginning July 1, 1956, is 2,054 million pounds calculated by subtracting the estimated disappearance for the marketing year beginning July 1, 1955, of 1,246 million pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of flue-cured tobacco which will make available during the marketing year beginning July 1, 1956, a supply of flue-cured tobacco equal to the reserve supply level of such tobacco is 1,027 million pounds, and a national marketing quota of such amount is hereby proclaimed. It is determined, however, that a national marketing quota in the amount of 1,027 million pounds would result in undue restriction of marketings during the 1956-57 marketing year and such amount is hereby increased by 10 percent. Therefore, the amount of the national marketing quota for flue-cured tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning July 1, 1956, is 1,130 million pounds.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 312, 313, 52 Stat. 38, 46, 47, as amended; 7 U. S. C. 1301, 1312, 1313)

Done at Washington, D. C. this 1st day of July 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-5465; Filed, July 6, 1955; 8:57 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter G—Determination of Proportionate Shares

[Sugar Determination 850.8, Supp. 1]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

IDAHO; PROPORTIONATE SHARE AREAS AND FARM PROPORTIONATE SHARES FOR 1955 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1955 Crop (19 F. R. 7260) as amended (20 F. R. 1635), the Agricultural Stabilization and Conservation Idaho State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 79,715 acres established for Idaho by the determination. Copies of these bases and procedures are available for public in-

spection at the office of such committee at 1524 Vista Street, Boise, Idaho, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Idaho. The bases and procedures incorporate the following:

§ 850.9 *Idaho*—(a) *Proportionate share areas.* Idaho shall be divided into five proportionate share areas as served by beet sugar companies. These areas shall be designated as follows: Amalgamated, Nampa-Nyssa; Amalgamated, Twin-Falls-Burley-Rupert, and Layton; Utah-Idaho; Franklin County and American Crystal. Acreage allotments for these areas shall be computed by applying to the planted sugar beet acreage record for each area a weighting of 80 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production" and a weighting of 20 percent to the largest acreage of any of the crops of 1950 through 1954, as a measure of "ability to produce," with a floor of 92 percent of the 1953-54 average acreage and with pro rata adjustments to a total of 79,715 acres. Acreage allotments computed as aforesaid are established as follows: Amalgamated, Nampa-Nyssa Area, 28,854 acres; Amalgamated, Twin Falls-Burley-Rupert, and Layton Area, 32,013 acres; Utah-Idaho Area, 13,781 acres; Franklin County Area, 4,851 acres; and American Crystal Area, 216 acres.

(b) *Set asides of acreage.* Set asides of acreage shall be made from each area allotment of not less than 1 percent for new producers and not less than 1 percent for appeals. In addition, reserve acreages for making adjustments in initial proportionate shares shall be set aside as follows: Amalgamated, Nampa-Nyssa Area, 0 acres; Amalgamated, Twin Falls-Burley-Rupert, and Layton Area, 418.3 acres; Utah-Idaho Area, 331.4 acres; Franklin County Area, 449.7 acres; and American Crystal Area, 55.8 acres.

(c) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC County office on form SU-100, Request for Sugar Beet Proportionate Share. The request shall be signed by the farm operator and shall be filed on or before the closing date for such filing, as established by the State Committee and publicized through local news releases.

(d) *Establishment of individual farm proportionate shares*—(1) *Farm bases.* Farm bases shall be established as follows:

(i) *Amalgamated, Nampa-Nyssa Area.* For each farm in the Amalgamated, Nampa-Nyssa area whose operator is not a tenant in the 1955-crop season, the farm base shall be established from the planted sugar beet acreage record of the farm, and for each farm in such area whose operator is a tenant in the 1955 crop season, a farm base shall be established from the planted sugar beet acreage record of the farm, or the planted sugar beet acreage record of the producer, whichever gives the higher base. Such farm base shall be computed by giving a weighting of 80 percent to the average acreage of the crops of 1950 through 1954, as a measure of "past pro-

¹ Rounded to the nearest million pounds.

duction," and a weighting of 20 percent to the largest acreage of the crops of 1950 through 1954, as a measure of "ability to produce."

(ii) *Amalgamated, Twin Falls-Burley-Rupert, and Layton Area.* For each farm in the Amalgamated, Twin Falls-Burley-Rupert, and Layton area, the farm base shall be computed from the planted sugar beet acreage record of the farm by giving a weighting of 75 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production" and a weighting of 25 percent to the average acreage of the crops of 1953-54, as a measure of "ability to produce."

(iii) *Utah-Idaho Area.* For each farm in the Utah-Idaho area, the farm base shall be computed from the planted sugar beet acreage record of the farm by giving a weighting of 70 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production" and a weighting of 30 percent to the average acreage of the crops of 1953-54, as a measure of "ability to produce."

(iv) *Franklin County Area.* For each farm in the Franklin County area, the farm base shall be computed from the planted sugar beet acreage record of the farm by giving a weighting of 75 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production" and a weighting of 25 percent to the average acreage of the crops of 1953-54, as a measure of "ability to produce."

(v) *American Crystal Area.* For each farm in the American Crystal area, the farm base shall be established on the basis of the average planted sugar beet acreage on the farm for the crops of 1952 through 1954, with "ability to produce" measured by minimums as follows: 85 percent of the 1954 acreage, if beets were planted in 1953 and 1954; 80 percent of the 1954 acreage, if beets were planted in 1954 only; and 70 percent of the 1953 acreage, if beets were planted in 1953 only.

(2) *Initial proportionate shares.* Initial proportionate shares shall be established from the farm bases in each proportionate share area on a pro rata basis so that the total of the farm shares equals the area allotment less the prescribed set-asides, provided that in the Amalgamated, Nampa-Nyssa area for each farm on which the 1954 acreage was 4 acres or less, the proportionate share shall be not less than the 1954 acreage.

(3) *Adjustments in initial shares.* Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator.

(4) *Proportionate shares for new producers.* Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established for new producers (as defined in § 850.8) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator.

(5) *Adjustments under appeals.* Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of the determination applicable to appeals.

(6) *Adjustments because of unused acreage.* To the extent of acreage available within the allotment for each proportionate share area from underplanting and failure to plant proportionate share acreages, and from set-aside acreages remaining unallotted, adjustments shall be made in farm proportionate shares throughout the 1955-crop season. These adjustments shall be made insofar as practicable during the planting season in the area on a pro rata basis for the farms whereon additional acreage may be planted.

(7) *Notification of farm operators.* The farm operator shall be notified concerning the proportionate share established for his farm on form SU-103, Notice of Farm Proportionate Share—1955 Sugar Beet Crop, even if the acreage established is "none" and in each case of approved adjustment the farm operator shall be notified regarding the adjusted proportionate share on a form SU-103 marked "Revised."

(8) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.8.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Idaho State Committee for determining farm proportionate shares in the State of Idaho in accordance with the determination of proportionate shares for the 1955 crop of sugar beets, as issued by the Secretary of Agriculture.

The division of Idaho into general areas as served by beet sugar companies provides a reasonable subdivision of the State, in relation to the operation of sugar beet processing plants and the use of advisory committees comprising grower and processor representatives. The formula used in subdividing the State acreage allocation among these areas is similar to that used by the Department of Agriculture in establishing State allocations, except that 80-20 percentage weightings are used rather than 75-25 percentage weightings.

The formulas used in subdividing the area allotments into individual farm proportionate shares are similar to the formula used for subdividing the States

allocation, with minor modifications particularly in the percentage weightings. The farm proportionate shares are based upon the planted sugar beet acreage records of farms except in the Amalgamated, Nampa-Nyssa Area where the personal production records of the farm operators are also considered. In this area of Idaho sugar beet production is organized around tenant-operators rather than around units of land.

The bases and procedures for making adjustments in initial proportionate shares, for establishing shares for new producers, and for adjusting proportionate shares because of unused acreage and appeals, set forth criteria to be followed for each of these operations in order that a fair and equitable proportionate share may be established for each farm.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 302, 61 Stat. 930; 7 U. S. C. Sup. 1132)

Dated: May 27, 1955.

[SEAL] W. J. CREA,
Chairman, Agricultural Stabilization and Conservation,
Idaho State Committee.

Approved:

THOS. H. ALLEN,
Acting Director Sugar Division,
Commodity Stabilization
Service.

[F. R. Doc. 55-5437; Filed, July 6, 1955;
8:40 a. m.]

[Sugar Determination 850.8, Supp. 2]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

WASHINGTON; PROPORTIONATE SHARE AREAS
AND FARM PROPORTIONATE SHARES FOR
1955 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1955 Crop (19 F. R. 7260) as amended (20 F. R. 1635), the Agricultural Stabilization and Conservation Washington State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 30,795 acres established for Washington by the determination. Copies of these bases and procedures are available for public inspection at the office of such committee at the Hutton Building, South 9, Washington Street, Spokane, Washington, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Washington. The bases and procedures incorporate the following:

§ 850.10 *Washington*—(a) *Proportionate share areas.* Washington shall be divided into three proportionate share areas as served by beet sugar companies. These areas shall be designated as follows: Utah-Idaho, Amalgamated and American Crystal. Acreage allotments for these areas shall be computed by applying to the planted sugar beet acreage record for each area a weighting of

75 percent to the average acreage for the crops of 1952 through 1954, as a measure of "past production" and a weighting of 25 percent to the largest acreage of any of the crops of 1952 through 1954, as a measure of "ability to produce" with a ceiling of 100 percent of the 1954 acreage, a floor of 85 percent of the 1954 acreage and pro rata adjustments to a total of 30,795 acres. Acreage allotments computed as aforesaid are established as follows: Utah-Idaho Area, 29,001 acres, Amalgamated Area, 1,700 acres, and American Crystal Area, 94 acres.

(b) *Set asides of acreage*—(1) *Utah-Idaho Area.* From the Utah-Idaho area allotment there is set aside 325.0 acres for use in establishing farm proportionate shares for new producers and 290 acres for adjusting individual farm proportionate shares under appeals.

(2) *Amalgamated area.* From the Amalgamated area allotment there is set aside 20 acres for use in establishing farm proportionate shares for new producers and 22.8 acres for adjusting individual farm proportionate shares under appeals.

(3) *American Crystal area.* From the American Crystal area allotment there is set aside 1 acre for use in establishing farm proportionate shares for new producers, 1 acre for adjusting individual farm proportionate shares under appeals, and 28 acres for adjusting individual farm proportionate shares pursuant to § 850.8 (h) (1).

(c) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC County office on form SU-100, Request for Sugar Beet Proportionate Share. The request shall be signed by the farm operator and shall be filed on or before the closing date for such filing, as established by the State Committee and publicized through local news releases.

(d) *Establishment of individual farm proportionate shares*—(1) *Farm bases.* Farm bases shall be established as follows: (i) For each farm whose operator is not a tenant in the 1955-crop season or whose operator is a tenant without a personal sugar beet production record in the 1952-54 period, the farm base shall be established from the planted sugar beet acreage record of the farm accruing to the land owner under the effective cropping arrangements except that for cash rented land, a credit shall be given for 25 percent of the acreage.

(ii) For each farm whose operator is a tenant in the 1955-crop season with respect to all of the land in the farm, the farm base shall be established from the personal sugar beet acreage production record of the operator.

(iii) For each farm whose operator for the 1955-crop season is an owner with respect to part of the land in the farm and a tenant with respect to the balance of such land, the farm base shall be established from a combination of farm and personal acreage production records as computed for the respective parts of the farm in accordance with subdivisions (i) and (ii) of this subparagraph.

(iv) The farm base shall be one-third of the total of the applicable planted sugar beet acreages (in accordance with subdivisions (i), (ii) and (iii) of this subparagraph) for the years 1952, 1953 and 1954, except that:

(a) Where there is a planted sugar beet acreage record for each of the years 1952, 1953 and 1954, the farm base shall not exceed 100 percent of the 1954 acreage nor be less than 90 percent of the 1954 acreage;

(b) Where there is a planted sugar beet acreage record for 1954 and either 1952 or 1953, the farm base shall not be less than 85 percent of the 1954 acreage; and

(c) Where there is a planted sugar beet acreage record for 1954 only, the farm base shall not be less than 80 percent of the 1954 acreage.

(2) *Initial proportionate shares.* Initial proportionate shares shall be established from the farm bases in each proportionate share area on a pro rata basis so that the total of the farm shares equals the area allotment less the prescribed set-asides, provided that for each farm with a base of 8.0 acres or less, the initial share shall coincide with the base.

(3) *Adjustments in initial shares.* Within the acreage available from the set-aside for adjustments and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(4) *Proportionate shares for new producers.* Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established for new producers (as defined in § 850.8) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. And to give effect to production experience, first consideration shall be given to a farm operator who was a sugar beet producer as a tenant during the period 1952-1954 and who is an owner-operator in 1955 on land without sugar beet production history in the period 1952-1954.

(5) *Adjustments under appeals.* Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of the determination applicable to appeals.

(6) *Adjustments because of unused acreage.* To the extent of acreage avail-

able within the allotment for each proportionate share area from underplanting and failure to plant proportionate share acreages, and from set-aside acreages remaining unallotted, adjustments shall be made in farm proportionate shares throughout the 1955-crop season. These adjustments shall be made insofar as practicable during the planting season in the area on a pro rata basis for the farms whereon additional acreage may be planted.

(7) *Notification of farm operators.* The farm operator shall be notified concerning the proportionate share established for his farm on form SU-103, Notice of Farm Proportionate Share—1955 Sugar Beet Crop, even if the acreage established is "none" and in each case of approved adjustment the farm operator shall be notified regarding the adjusted proportionate share on a form SU-103 marked "Revised."

(8) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.8.

STATEMENT OF BASIS AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Washington State Committee for determining farm proportionate shares in the State of Washington in accordance with the determination of proportionate shares for the 1955 crop of sugar beets, as issued by the Secretary of Agriculture.

The division of Washington into general areas as served by beet sugar companies provides a reasonable subdivision of the State, in relation to the operation of sugar beet processing plants and the use of advisory committees comprising grower and processor representatives. The formula used in subdividing the State acreage allocation among these areas gives effect to a 3-year base period, whereas the Department of Agriculture employed a 5-year base period in establishing State allocations, and the provisions concerning ceilings and floors are also somewhat different. These modifications reflect recent trends in production.

The subdivision of area allotments into individual farm proportionate shares is based primarily upon 3-year average acreages, with specified maximum and minimum levels to reflect acreage trends. Since sugar beet production in Washington is organized around tenant-operators rather than around units of land, the personal production records of the farm operators, as well as the production records of the farms, are considered generally in establishing individual farm proportionate shares.

The bases and procedures for making adjustments in initial proportionate shares, for establishing shares for new producers, and for adjusting proportionate shares because of unused acreage and appeals, set forth criteria to be followed for each of these operations in order that a fair and equitable proportionate share may be established for each farm.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 302, 61 Stat. 930; 7 U. S. C. Sup. 1132)

Dated: June 2, 1955.

[SEAL] A. M. CAMP,
Chairman, Agricultural Stabilization and Conservation,
Washington State Committee.

Approved:

THOS. H. ALLEN,
Acting Director Sugar Division,
Commodity Stabilization Service.

[F. R. Doc. 55-5438; Filed, July 6, 1955;
8:49 a. m.]

[Sugar Determination 850.8, Supp. 3]

PART 850—DOMESTIC BEET SUGAR
PRODUCING AREA

NORTH DAKOTA, PROPORTIONATE SHARE AREAS
AND FARM PROPORTIONATE SHARES FOR
1955 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1955 Crop (19 F. R. 7260) as amended (20 F. R. 1635) the Agricultural Stabilization and Conservation North Dakota State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 34,600 acres established for North Dakota by the determination. Copies of these bases and procedures are available for public inspection at the office of such committee at 304 de Lendrecie Building, Fargo, North Dakota, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of North Dakota. These bases and procedures incorporate the following:

§ 850.11 *North Dakota*—(a) *Proportionate share areas*. North Dakota shall be divided into two proportionate share areas comprising the separate sugar beet producing regions of the State, one of which is served by the American Crystal Sugar Company and the other by the Holly Sugar Corporation. These areas shall be designated the "Eastern Area" and the "Western Area" respectively. Acreage allotments for these areas shall be computed by applying to the planted sugar beet acreage record for each area a weighting of 85 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production" and a weighting of 15 percent to the largest acreage of any of the crops of 1950 through 1954, as a measure of "ability to produce" with pro rata adjustments to a total of 34,600 acres. Acreage allotments computed as aforesaid are established as follows: Eastern Area, 30,674 acres and Western Area, 3,926 acres.

(b) *Set asides of acreage*—(1) *Eastern area*. From the Eastern area allotment there is set aside 330 acres for use in establishing farm proportionate shares for new producers, 478.3 acres for adjusting individual farm proportionate shares

under appeals, and 246.3 acres for adjusting individual farm proportionate shares pursuant to § 850.8 (h) (1)

(2) *Western area*. From the Western area allotment there is set aside 39.3 acres for use in establishing farm proportionate shares for new producers, 48.9 acres for adjusting individual farm proportionate shares under appeals, and 94.3 acres for adjusting individual farm proportionate shares pursuant to § 850.8 (h) (1)

(c) *Requests for proportionate shares*. A request for each farm proportionate share shall be filed at the local ASC County office on form SU-100, Request for Sugar Beet Proportionate Share. The request shall be signed by the farm operator and shall be filed on or before the closing date for such filing, as established by the State Committee and publicized through local news releases.

(d) *Establishment of individual farm proportionate shares*—(1) *Farm bases*. Farm bases shall be established as follows:

(i) *Eastern area*. For each farm in the Eastern area whose operator is not a tenant in the 1955-crop season, the farm base shall be established from the planted sugar beet acreage record of the farm accruing to the land owner under the effective cropping arrangements. For each farm in such area whose operator is a tenant in the 1955-crop season, the farm base shall be established from the planted sugar beet acreage record of the operator, provided that if both the person who was a crop-share tenant of land on which beets were planted in any year of such period and the person who was the owner of the same land file requests for proportionate shares, the acreage history of such land shall be divided between such tenant and owner on the basis of the effective crop shares. Such farm base shall be computed by giving a weighting of 75 percent to the average acreage of the crops of 1952 through 1954, as a measure of "past production" and a weighting of 25 percent to the largest acreage of the crops of 1952 through 1954, as a measure of "ability to produce" with minimum acreages as follows:

(a) If sugar beets were planted in all 3 years of the 1952-54 period, 90 percent of the 1953-54 average acreage;

(b) If sugar beets were planted in 1953 and 1954 only, 85 percent of the 1953-54 average acreage; and

(c) If sugar beets were planted in 1952 and 1954 or 1954 only, 75 percent of the 1954 acreage.

(ii) *Western area*. For each farm in the Western Area, the farm base shall be computed from the planted sugar beet acreage record of the farm by giving a weighting of 75 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production", and a weighting of 25 percent to the average acreage of the crops of 1953-54, as a measure of "ability to produce."

(2) *Initial proportionate shares*. Initial proportionate shares shall be established from the farm bases in each proportionate share area on a pro rata basis so that the total of the farm shares equals the area allotment less the prescribed set-asides.

(3) *Adjustments in initial shares*. Within the acreage available from the set-aside for adjustments and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability of irrigation water (applicable in the Western Area only), adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(4) *Proportionate shares for new producers*. Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established for new producers (as defined in § 850.8) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. And to give effect to production experience, first consideration shall be given to a farm operator who was a sugar beet producer as a tenant during the base period and who is an owner-operator in 1955 on land without sugar beet production history in the base period.

(5) *Adjustments under appeals*. Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of the determination applicable to appeals.

(6) *Adjustments because of unused acreage*. To the extent of acreage available within the allotment for each proportionate share area from underplanting and failure to plant proportionate share acreages, and from set-aside acreages remaining unallotted, adjustments shall be made in farm proportionate shares throughout the 1955-crop season. These adjustments shall be made insofar as practicable during the planting season in the area on a pro rata basis for the farms whereon additional acreage may be planted.

(7) *Notification of farm operators*. The farm operator shall be notified concerning the proportionate share established for his farm on form SU-103, Notice of Farm Proportionate Share—1955 Sugar Beet Crop, even if the acreage established is "none" and in each case of approved adjustment the farm operator shall be notified regarding the adjusted proportionate share on a form SU-103 marked "Revised."

(8) *Determination provisions prevail*. The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.8.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation

North Dakota State Committee for determining farm proportionate shares in North Dakota in accordance with the determination of proportionate shares for the 1955 crop of sugar beets, as issued by the Secretary of Agriculture.

The division of North Dakota into two general areas is reasonable considering geographical locations, the operation of sugar beet processing plants and the use of advisory committees comprising grower and processor representatives. The formula used in dividing the State acreage allocation between these areas is similar to that used by the Department of Agriculture in establishing State allocations, except that 85-15 percentage weightings are used rather than 75-25 percentage weightings.

The formulas used in subdividing the area allotments into individual farm proportionate shares reflect differences in the two areas. The Western Area is an older producing region with more uniform acreages, as compared with the Eastern Area wherein the production of recent crops has expanded significantly. The formula used in the Eastern Area is designed especially to recognize production trends. Since sugar beet production in this area is organized around tenant-operators rather than around units of land, the personal production records of the farm operators are considered generally in establishing individual farm proportionate shares.

The bases and procedures for making adjustments in initial proportionate shares, for establishing shares for new producers, and for adjusting proportionate shares because of unused acreage and appeals, set forth criteria to be followed for each of these operations in order that a fair and equitable proportionate share may be established for each farm.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 302, 61 Stat. 930; 7 U. S. C. Sup. 1132)

Dated: June 3, 1955.

[SEAL] PALMER LEVIN,
Chairman, Agricultural Stabilization and Conservation,
North Dakota State Committee.

Approved:

THOS. A. ALLEN,
Acting Director Sugar Division,
Commodity Stabilization Service.

[F. R. Doc. 55-5439; Filed, July 6, 1955; 8:50 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Fresh Pea Order 1—1955]

PART 910—VEGETABLES GROWN IN CERTAIN DESIGNATED COUNTIES IN COLORADO

LIMITATION OF SHIPMENTS

§ 910.322 *Fresh Pea Order 1—1955—*
(a) Findings. (1) Pursuant to Market-

ing Agreement No. 67, as amended, and Order No. 10, as amended, (7 CFR Part 910; 19 F. R. 3019) regulating the handling of vegetables grown in certain designated counties in Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Pea Marketing Committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of fresh peas, in the manner set forth in this section, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted, under the circumstances, for such preparation, and (v) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

(b) Order. (1) During the period from July 10, 1955, to September 17, 1955, both dates inclusive, no handler shall handle any fresh peas unless such peas grade at least U. S. No. 1 and are of a minimum pod length of three (3) inches.

(2) The terms used in this section shall have the same meaning as when used in the said marketing agreement, as amended, and order, as amended, and the grades and sizes used in this section shall have the same meaning assigned to these terms in the United States Standards for Fresh Peas (§§ 51.1375 to 51.1387 of this title) including the tolerances set forth therein.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 1st day of July 1955 to become effective July 10, 1955.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-5499; Filed, July 6, 1955; 8:57 a. m.]

[Bartlett Pear Order 1]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATION BY GRADES AND SIZES

§ 936.509 *Bartlett Pear Order 1—(a) Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Bartlett Pear Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Bartlett pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 8, 1955. A reasonable determination as to the supply of, and the demand for, Bartlett pears must await the development of the crop and adequate information thereon was not available to the Bartlett Pear Commodity Committee until June 28, 1955; recommendation as to the need for, and the extent of, regulation of shipments of such pears was made at the meeting of said committee on June 28, 1955, after consideration of all available information relative to the supply and demand conditions for such pears, at which time the recommendation and supporting information was submitted to the Department; without regulation, shipments of the current crop of such pears are expected to begin on or about July 8, 1955; and this section should be applicable to all shipments of such pears in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) Order. (1) During the period beginning at 12:01 a. m., P. S. T., July 8, 1955, and ending at 12:01 a. m., P. S. T., December 1, 1955, no shipper shall ship any box or container of Bartlett pears unless:

(i) All such pears grade not less than U. S. No. 2;

(ii) At least 70 percent by count of the pears contained in any box or container grade at least U. S. No. 1 with the following exceptions: (a) Such pears may fail to be fairly well formed only because of short shape but shall not be seriously misshapen; and (b) a quantity of such pears equivalent to not more than 20 percent of the total number of pears in any box or container may be damaged but not seriously damaged by hail and frost; and

(iii) All such pears are of a size not smaller than the size known commercially as size 180.

(2) Section 936.143 of the rules and regulations, as amended (7 CFR 936.100 et seq.) sets forth the requirements with respect to the inspection and certification of shipments of Bartlett pears. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(c) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 180" means a size Bartlett pear that will pack a standard pear box, packed in accordance with the specifications of a standard pack, with five tiers, each tier having six rows with six pears in each row, and with the twenty-one smallest pears weighing not less than five pounds.

(3) "Standard pear box" means the container so designated in section 828.3 of the Agricultural Code of California.

(4) "U. S. No. 1," "U. S. No. 2," "fairly well formed," "seriously misshapen," "damage," "seriously damaged," and "standard pack" shall have the same meaning as when used in the United States Standards for Pears (summer and fall), §§ 51.1260 to 51.1278 of this title. (Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 5, 1955.

[SEAL] FLOYD F HEDLUND,
Acting Director Fruit and
Vegetable Division, Agricultural
Marketing Service.

[F. R. Doc. 55-5500; Filed, July 6, 1955;
8:58 a. m.]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

LIMITATION OF SHIPMENTS

§ 957.313 *Limitation of shipments—*
(a) *Findings.* (1) Pursuant to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957) regulating the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of

1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Idaho-Eastern Oregon Potato Committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted, under the circumstances, for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

(b) *Order* (1) During the period from July 11, 1955, to September 20, 1955, both dates inclusive, no handler shall ship potatoes of any variety unless such potatoes are "fairly clean" and (i) if they are of the red skin varieties such potatoes meet the requirements of the U. S. No. 2 or better grade, 1½ inches minimum diameter, and (ii) if they are of any other varieties such potatoes meet the requirements of the U. S. No. 2 or better grade, Size A, 2 inches minimum diameter or 4 ounces minimum weight, as such terms, grades, and sizes are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title) including the tolerances set forth therein.

(2) During the period from July 11, 1955, to October 31, 1955, both dates inclusive, and subject to the requirements set forth in subparagraph (1) of this paragraph no handler shall ship (i) any lot of potatoes of the Kennebec and White Rose varieties if more than 30 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered", as such terms are used in the said United States Standards, or (ii) any lot of potatoes of any other varieties if such potatoes are more than "moderately skinned" as such term is defined in the said United States Standards, which means that not more than 10 percent of such potatoes have more than one-half of the skin missing or "feathered". *Provided*, That during such period, not to exceed 100 hundredweight of each variety of such potatoes may be handled for any producer without regard to the aforesaid skinning requirements

if the handler thereof reports, prior to such handling, the name and address of the producer of such potatoes, and each shipment hereunder is handled as an identifiable entity.

(3) Pursuant to § 957.55, each handler may make one shipment of not in excess of five hundredweight per week without regard to the limitations set forth in subparagraphs (1) and (2) of this paragraph, and §§ 957.42 and 957.65.

(4) For the purpose of determining who shall be entitled to the exemption, set forth in subparagraph (2) of this paragraph, from the maturity requirements contained in such subparagraph:

(i) "Producer" means any individual, partnership, corporation, association, landlord-tenant crop sharing relationship, community property ownership, or any other business unit engaged in the production of potatoes for market.

(ii) It is intended that each 100 hundredweight exemption to the aforesaid maturity requirements shall apply only to the potatoes grown on each farm of a producer.

(5) The limitations set forth in subparagraphs (1) and (2) of this paragraph shall not be applicable to shipments of potatoes for the following purposes: (i) Seed, (ii) export, (iii) canning, dehydration, or manufacture or conversion into starch, flour, meal, and alcohol, and (iv) charity.

(6) Each handler making shipments of potatoes pursuant to subparagraph (5) of this paragraph (i) shall first obtain, in accordance with §§ 957.130 to 957.133, inclusive, from the committee a Certificate of Privilege for such handling, (ii) shall have each of such shipments (except shipments for seed) inspected pursuant to § 957.65, (iii) shall pay assessments on such shipments pursuant to § 957.42, (iv) shall, with respect to each shipment made pursuant to subdivision (ii) (iii), or (iv) of subparagraph (5) of this paragraph, furnish a copy of the bill of lading applicable thereto to the committee, (v) shall, with respect to each shipment made pursuant to subdivision (ii) of subparagraph (5) of this paragraph, include in his application for the Certificate of Privilege therefor the export license number and shall enter such number on the Federal-State inspection certificate and bill of lading applicable to such shipment or, in the event no export license is required on such shipment, the handler shall furnish the committee with a copy of the Department of Commerce Shippers Export Declaration Form No. 7525-V applicable to such shipment, and (vi) shall, with respect to each application for a Certificate of Privilege to ship potatoes pursuant to subdivision (iii) or (iv) of subparagraph (5) of this paragraph, submit the applicant-handler's certification and the buyer's certification that the potatoes to be so shipped are to be used for the purposes stated in the application.

(7) Terms used in Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957) shall, when used in this section, have the same meaning as when used in said agreement and order, as amended.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c).

Done at Washington, D. C., this 1st day of July 1955, to become effective July 11, 1955.

[SEAL] FLOYD F. HEDLUND,
Acting Director
Fruit and Vegetable Division.

[F. R. Doc. 55-5463; Filed, July 6, 1955;
8:56 a. m.]

PART 987—MILK IN THE CENTRAL
MISSISSIPPI MARKETING AREA

ORDER AMENDING THE ORDER

§ 987.0 *Findings and determinations.* The findings and determinations herein after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order, and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Mississippi marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make this order amending the order effective not later than July 1, 1955. Such action is necessary in order to reflect current marketing conditions and to facilitate the orderly marketing of milk produced for the Central Mississippi marketing area. Any delay beyond July 1, 1955, in the effective date of this order amending the order will tend to impair the orderly marketing of milk produced for the Cen-

tral Mississippi marketing area. The changes effected by this order amending the order do not require of persons affected substantial or extensive changes prior to the effective date. In view of the foregoing, it is hereby found that good cause exists for making this order effective July 1, 1955 (Sec. 4 (c) Administrative Procedure Act, 5 U. S. C. 1003 (c)).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by this order amending the order, which is marketed within the Central Mississippi marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order is approved or favored by at least two-thirds of the producers who, participated in a referendum thereon, and who during the determined representative period (April 1955) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Central Mississippi marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Amend § 987.8 to read as follows:

§ 987.8 *Supply plant.* "Supply plant" means (a) any plant other than a distributing plant from which Grade A milk, skim milk or cream is shipped during the month to a distributing plant in any of the months of January through July, or (b) any plant other than a distributing plant from which not less than 50 percent of the Grade A milk received from dairy farmers during the month is shipped in such month as milk, skim milk or cream to distributing plants during the months of August through December.

2. Add the following as § 987.31 (c)

(c) Each handler who receives producer milk for which payment is to be made to a cooperative association pursuant to § 987.90 (e) shall report to such cooperative association with respect to each such producer as follows:

(1) On or before the 20th day of each month the total pounds of milk received during the first 15 days of the month,

(2) On or before the 10th day after the end of each month:

(i) The daily and total pounds of milk received during the month with separate totals for base and excess milk for the months of March through July, and the average butterfat test thereof; and

(ii) The amount or rate and nature of any deductions.

3. Delete § 987.44 (a) and substitute therefor the following:

(a) As follows if transferred in the form of products designated as Class I milk in § 987.41 (a) (1) to the fluid milk plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to § 987.30, subject in any event to the conditions set forth in subparagraph (3) of this paragraph:

(1) As Class I milk, if transferred from a distributing plant to a fluid milk plant or from a supply plant to a supply plant;

(2) Pro rata to the amounts of skim milk and butterfat, respectively, remaining in each class in the plant(s) of the transferee handler after subtraction pursuant to § 987.46 (a) (4) and the corresponding step of paragraph (b) thereof of any skim milk or butterfat classified pursuant to subparagraph (1) of this paragraph, if transferred from a supply plant to a distributing plant.

(3) (i) In no event shall the skim milk or butterfat assigned to Class II milk exceed the amount thereof remaining in Class II milk in the plant(s) of the transferee handlers after subtraction of other source milk pursuant to § 987.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk; and

(ii) If either or both handlers have other source milk during the month, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to producer milk of both handlers.

4. Add the following as § 987.90 (e)

(e) In lieu of payments pursuant to paragraphs (a), (b) and (c) of this section each handler shall make payment to a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines that such cooperative association is authorized to collect payment, as follows:

(1) On or before the 26th day of each month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received during the first 15 days of the month from such producers, and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable uniform price(s) pursuant to §§ 987.71 and 987.72, multiplied by the hundredweight of milk received from such producers to which each such price is applicable, subject to the butterfat differential computed pursuant to § 987.91 and the location differential computed pursuant to § 987.92, less payment made such cooperative association pursuant to subparagraph (1) of this paragraph, and proper de-

ductions authorized in writing by such producers or such cooperative associations.

5. Add the following as § 987.90 (f)

(f) On or before the 13th day after the end of the month each handler shall pay to each cooperative association which is also a handler for milk received from it not less than the value of such milk as classified pursuant to § 987.44 (a) at the applicable respective class prices, including charges and differentials prescribed by the order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 1st day of July 1955, to be effective on and after July 1, 1955.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 55-5464; Filed, July 6, 1955;
8:56 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6229]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

DEAN ROSS PIANO STUDIOS, INC., AND
LEONARD GREENE

Subpart—*Advertising falsely or misleadingly: § 13.170 Qualities or properties of product or service.* In connection with the offering for sale, sale, and distribution of respondents' home study courses in piano instruction, known as "Dean Ross Piano Course" or any other course of instruction of the same nature, in commerce, representing, directly or by implication: (1) That by employing said course of instruction persons are able to play the piano, unless it is clearly and conspicuously disclosed that such playing is limited to simple, single note melodies with one hand and simple bass chord accompaniments with the other; and (2) that by employing said course of instruction persons are able to play hymns, ballads, or sheet music unless it is clearly and conspicuously disclosed that such music cannot be played unless it is arranged for or is adaptable to respondents' course of instruction and is limited to simple, single note melodies with one hand and simple bass chord accompaniments with the other; prohibited.

(Sec. 5, 38 Stat. 719; 15 U. S. C. 45) [Cease and desist order, Dean Ross Piano Studios, Inc., et al., New York, N. Y., Docket 6229, May 19, 1955]

This proceeding was heard by Loren H. Laughlin, hearing examiner, upon the complaint of the Commission which charged respondents in certain particulars with having violated the provisions of the Federal Trade Commission Act, and upon a stipulation in writing, with counsel supporting the complaint, entered into by respondents following the filing of their answer, pursuant to which respondents withdrew their answer, waived the filing of another answer, and agreed that a consent order against them

might be entered in terms identical with those contained in the notice issued and served on respondents as a part of the complaint, subject to the provision that certain language in the proposed order in said notice, namely, the words "has been specifically prepared so as to permit the use of respondents' course of instruction" be stricken and there be substituted therefor the words "it is arranged for or is adaptable to respondents' course of instruction"

By the terms of said stipulation, which was approved in writing by the Director and Assistant Director of the Commission's Bureau of Litigation, there was set forth, among other things, that respondents admitted all the jurisdictional allegations of the complaint and agreed that the record in the matter might be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations; that the parties expressly waived a hearing before the hearing examiner or the Commission and all further and other procedure to which the respondents might be entitled under the Federal Trade Commission Act or the rules of practice of the Commission, and that the order to cease and desist issued in accordance with said stipulation should have the same force and effect as if made after a full hearing, the parties having waived specifically therein any and all right, power, or privilege to challenge or contest the validity of said order, and it was also stipulated and agreed therein that the complaint in the matter might be used in construing the terms of the order provided for in said stipulation which might be altered, modified, or set aside in the manner provided by the statute for the orders of the Commission.

Thereafter, said stipulation for consent order, as thus approved, having been submitted to said hearing examiner for his consideration in accordance with Rule V of the Commission's rules of practice, said examiner made his initial decision in which he set forth the aforesaid matters; upon due consideration of the complaint and the Stipulation for Consent Order, which he accepted and ordered filed as part of the record in the matter—it having been stipulated that they should be the entire record on which such order might be entered—found that the Commission had jurisdiction of the subject matter of the proceeding and of each of the parties respondent; that the complaint stated a legal cause for complaint under the Federal Trade Commission Act against said respondents as an entirety and as to each of the particular advertisements alleged as violations of law therein; that the proceeding was in the interest of the public; that the order to be issued, as proposed in said stipulation, was appropriate for the disposition of the proceeding, the same not to become final unless and until it became the order of the Commission; and that said order should therefore be entered; and in which, accordingly, he entered the same.

Thereafter the matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision, the matter was disposed of by the Commission's "Order Modifying Initial Decision, Adopting Initial

Decision as Modified as Commission's Decision, and Directing That Report of Compliance Be Filed", dated May 19, 1955, as follows:

"This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision herein; and

The Commission having duly considered the entire record herein, and it appearing that the stipulation containing a consent order, upon which the hearing examiner's initial decision is based, provides no basis for the hearing examiner's finding that the allegations of the complaint, other than those admitted in the stipulation, are true, and that, therefore, the initial decision should be modified to eliminate said finding:

It is ordered, That the hearing examiner's initial decision be, and it hereby is, modified by striking from the fourth paragraph thereof the words "and the allegations of which I therefore find to be true, state" and substituting therefor the word "states."

It is further ordered, That the initial decision of the hearing examiner as herein modified shall, on the 19th day of May 1955, become the decision of the Commission.

It is further ordered, That the respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

The order in said initial decision, thus adopted as the order of the Commission, is as follows:

It is ordered, That Dean Ross Piano Studios, Inc., a corporation, and its officers, Leonard Greene, individually and as an officer of said corporation, and respondents' representatives, agents and employees, in connection with the offering for sale, sale and distribution of their home study courses in piano instruction, known as Dean Ross Piano Course, or any other course of instruction of the same nature, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That by employing said course of instruction persons are able to play the piano, unless it is clearly and conspicuously disclosed that such playing is limited to simple, single note melodies with one hand and simple bass chord accompaniments with the other.

2. That by employing said course of instruction persons are able to play hymns, ballads or sheet music unless it is clearly and conspicuously disclosed that such music cannot be played unless it is arranged for or is adaptable to respondents' course of instruction and is limited to simple, single note melodies with one hand and simple bass chord accompaniments with the other.

Issued: May 19, 1955.

By the Commission.

[SEAL]

ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-5434; Filed, July 6, 1955;
8:48 a. m.]

TITLE 37—PATENTS, TRADE-MARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 1—RULES OF PRACTICE IN PATENT CASES

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

PART 3—FORMS FOR PATENT CASES

PART 4—FORMS FOR TRADEMARK CASES

PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO FILE APPLICATIONS IN FOREIGN COUNTRIES

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

PART 7—REGISTER OF GOVERNMENT INTERESTS IN PATENTS

MISCELLANEOUS AMENDMENTS AND REORGANIZATION OF CHAPTER

The following amendments are made, to take effect on August 15, 1955, except as otherwise provided.

Part 2 established herein shall apply to further proceedings in trademark applications pending on such date, including applications filed under the Act of 1905 or 1920 insofar as not inconsistent with said Acts, and also to further action in inter partes cases pending on such date, except to the extent that, in the opinion of the Commissioner, their application to a particular case pending when these rules take effect, or to a particular action or paper in such case would not be feasible or would work injustice, in which event the rules in effect immediately prior to the date these rules take effect, shall apply to such case, action or paper.

Section 2.142 shall not apply to appeals from final rejections of the examiner made before August 15, 1955, and appeals to the Commissioner from such rejections shall be governed by the applicable rules in effect prior to such date.

A. Changes in arrangement of chapter.

The subchapter designations are abolished.

The number of Part 2 is changed to Part 7 and the number of each section in Part 2 is amended by replacing the part number 2 which precedes the decimal point by the new part number 7.

The number of Part 10 is changed to Part 3 and the number of each section in Part 10 is amended by replacing the part number 10 which precedes the decimal point by the new part number 3.

Part 100 is abolished to be replaced by new Part 2 established herein.

Part 110 is abolished to be replaced by new Part 4 established herein.

New Part 6, Classification of Goods and Services under the Trademark Act, containing the classification formerly appearing in § 100.161, is established.

The arrangement of chapter I as amended is as set forth in the headnotes above.

B. Miscellaneous amendments in Part 1.

1. Section 1.1 is amended by adding the following note:

NOTE: §§ 1.1 to 1.26 are applicable to trademark cases as well as to patent cases except for provisions specifically directed to patents.

2. Section 1.4 is amended by adding "or trademark registrations" after "patents" in item 1 of paragraph (a), and by cancelling the parenthetical expression at the end of paragraph (a).

3. Section 1.4 is amended by renumbering present paragraph (b) as (c) and inserting the following new paragraph (b)

(b) Since each application file should be complete in itself, a separate copy of every paper to be filed in an application should be furnished for each application to which the paper pertains, even though the contents of the papers filed in two or more applications may be identical.

4. Section 1.5 is amended by adding the following paragraph:

(c) A letter relating to a trademark application should identify it as such and by the name of the applicant and the serial number and filing date of the application. A letter relating to a registered trademark should identify it by the name of the registrant and by the number and date of the certificate.

The heading of § 1.5 is amended by changing "or patent" to ", patent or registration"

5. Section 1.11 is amended by adding the following note: "See § 2.27 for trademark files."

6. Section 1.12 is amended by changing "liber and page" to "identification" in the second sentence and by inserting "or in the case of a trademark registration by the name of the registrant and number of the registration," after "patent" in the third sentence.

7. Section 1.13 is amended by inserting, "and trademark registrations" after "patents"

8. Section 1.14 is amended by inserting the word "patent" before "applications" in the title and in the first sentence, and by adding the following note: "See § 2.27 for trademark applications."

9. Section 1.14 is amended by changing "sec. 11 (d) of the Atomic Energy Act of 1946, 60 Stat. 768; 42 U. S. C. 1811" to read: "specified by secs. 151 (c) and 151 (d) of the Atomic Energy Act of 1954, 68 Stat. 919; 42 U. S. C. 2181."

10. Section 1.21 is amended to read as follows:

§ 1.21 *Patent and miscellaneous fees and charges.* In addition to the fees prescribed by statute, the following fees and charges are established by the Patent Office:

(a) For typewritten manuscript copies of records, for every 100 words or fraction thereof.....	\$0.10
(b) For photo copies of records or printed material, per sheet.....	.30
(c) For photo prints of drawings, for each sheet of drawing.....	.30
(d) For certified copies of patents if in print:	
For specification and drawing, per copy.....	.25
For the certificate.....	1.00
For the grant.....	1.00

(e) For abstracts of title to each patent or application:

For the search, one hour or less, and certificate.....	\$3.00
Each additional hour or fraction thereof.....	1.50
For each brief from the digest of assignments, of 200 words or less.....	1.00
Each additional 100 words or fraction thereof.....	.10
(f) For title reports required for Office use.....	1.00
(g) For translations, made only of references cited in applications or of papers filed in the Office, for every 100 words or fraction thereof.....	1.25
(h) On admission to practice as an attorney or agent.....	5.00
(i) For certificate of good standing as an attorney or agent.....	1.00
(j) For making patent drawings, when they can be made by the Patent Office, the cost of making the same, minimum charge per sheet.....	15.00
(k) For correcting patent drawings, the cost of making the correction, minimum charge.....	1.00
(l) For the mounting of unmounted drawings and photoprints received with patent applications, provided they are of approved permanency.....	1.00
(m) For photographic prints of patent models, building facilities, etc., if available:	
For 5 x 7 photographic print.....	.50
For 8 x 10 photographic print.....	.75
(n) Searching for and supplying list of references cited in the file of a patent issued before February 4, 1947 (this list is printed on the copies of patents issued on and after February 4, 1947), for list and time involved, one hour or less, \$1.50, and \$1.50 for each additional hour or fraction.	
(o) Search of records to determine the filing by any particular person of applications for patents, on presentation of proper authorization, one hour or less.....	1.50
(p) Subscription orders for printed copies of patents as issued: Annual service charge for entry of order and one subclass, \$1.00, and 10 cents for each additional subclass; amount to be deposited (for the price of the copies supplied), as determined with respect to each order.	
(q) Lists of U. S. patents classified in a subclass, made to order, per sheet (containing 100 patent numbers or less).....	.20
(r) Local delivery box rental, annual.....	5.00
(s) For publication in the Official Gazette of a notice of the availability of a patent for licensing or sale, each patent.....	3.00

11. Section 1.24 is amended by changing "and designs (and also of trademark registrations)" to read "designs and trademark registrations"

12. Section 1.25 is amended by rewriting the fourth sentence of paragraph (a) to read as follows: "A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value."

13. Section 1.26 is amended by cancelling "for a patent" in the first sentence.

14. Section 1.84 (g) is amended by adding "or to show materials" at the end of the third sentence.

15. Section 1.65 is amended by cancelling the word "for" in the second sentence.

16. Section 1.147 is amended by cancelling the word "typewritten" and by inserting "prepared and" before "certified", in the second sentence.

17. Section 1.173 is amended by cancelling "or otherwise indicated as being deleted" in the first sentence.

18. Section 1.232 (b) is amended to read as follows:

(b) When one of the parties to the interference is a patentee, no motion to dissolve may be brought by any party on the ground that the subject matter of a count is unpatentable to all parties or is unpatentable to the patentee, except that a motion to dissolve as to the patentee may be brought which is limited to such matters as may be considered at final hearing (§ 1.258)

19. Section 1.273 is amended by cancelling "and of the names and residences of the witnesses to be examined" at the end of the first sentence and substituting: "and the name and address of each witness to be examined; if the name of a witness is not known a general description sufficient to identify him or the particular class or group to which he belongs; together with a satisfactory explanation, may be given instead."

20. Section 1.292. (a) is amended by cancelling the word "original" in the first sentence.

21. Section 1.314 is amended by cancelling the third sentence and revising the second sentence to read: "In the absence of request to suspend issue of the patent up to three months, the patent will issue in regular course in the order in which the final fee is paid."

22. Section 1.332 is amended by cancelling the first sentence and revising the second sentence to read: "Assignments are recorded in regular order as promptly as possible, and then transmitted with the date and identification of the record stamped thereon to the persons entitled to them."

23. Section 1.341 is amended by adding the following note at the end of the section:

NOTE: See § 2.12 for practice in trademark cases.

(66 Stat. 793; 35 U. S. C. 6)

C. Part 2, Rules of Practice in Trademark Cases, replacing Part 100, is established as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

- Sec.
2.1 Sections of Part 1 applicable.
2.6 Trademark fees.

REPRESENTATION BY ATTORNEYS AND AGENTS

- 2.11 Applicants may be represented by an attorney.
2.12 Persons who may practice before the Patent Office in trademark cases.
2.13 Professional conduct.
2.14 Advertising.
2.15 Signature and certificate of attorney or agent.
2.16 Suspension or exclusion from practice.

- Sec.
2.17 Power of attorney or authorization of agent.
2.18 Correspondence held with attorney or agent.
2.19 Revocation of power of attorney or authorization of agent.

APPLICATION FOR REGISTRATION

- 2.21 Parts of application.
2.22 Application must be complete to receive filing date.
2.23 Serial number and filing date.
2.24 Designation of representative by foreign applicant.
2.25 Papers not returnable.
2.26 Use of old drawing in new application.
2.27 Application confidential prior to publication, access to applications.

THE WRITTEN APPLICATION

- 2.31 Application must be in English.
2.32 Application to be signed and sworn to by applicant.
2.33 Requirements for application.
2.34 [Reserved.]
2.35 Description of mark.
2.36 Identification of prior registrations.
2.37 Power of attorney, domestic representative.
2.38 Use by predecessor or by related companies.
2.39 Omission of allegation of use by foreign applicants.
2.41 Proof of distinctiveness under section 2 (f).
2.42 Concurrent use.
2.43 Service mark.
2.44 Collective mark.
2.45 Certification mark.
2.46 Principal Register.
2.47 Supplemental Register.

DRAWING

- 2.51 Drawing required.
2.52 Requirements for drawings.
2.53 Transmission of drawings.
2.54 Informal drawings.
2.55 Patent Office may make drawings.

SPECIMENS

- 2.56 Specimens.
2.57 Facsimiles.
2.58 Specimens or facsimiles in the case of a service mark.

EXAMINATION OF APPLICATION AND ACTION BY APPLICANTS

- 2.61 Action by examiner.
2.62 Period for response.
2.63 Re-examinations.
2.64 Final action.
2.65 Abandonment.
2.66 Revival of abandoned applications.
2.67 Suspension of action by Patent Office.
2.68 Express abandonment.
2.69 Compliance with other laws.

AMENDMENT OF APPLICATION

- 2.71 Amendments to application.
2.72 Amendments to description or drawing.
2.73 Amendment to recite concurrent use.
2.74 Form of amendment.
2.75 Amendment to change application to different register.

PUBLICATION AND ALLOWANCE

- 2.81 Publication in Official Gazette.
2.82 Allowance of application.
2.83 Marks on Supplemental Register published only upon registration.
2.84 Jurisdiction over published or allowed applications.

CLASSIFICATION

- 2.85 Classification of goods and services.
2.86 Plurality of goods or services comprised in single class may be covered by single application.

- Sec.
2.87 Original application must be limited to goods or services comprised in a single class.
2.88 Applications may be combined.

INTERFERENCES

- 2.91 Interferences.
2.92 Preliminary to interference.
2.93 Declaration of interference.
2.94 Interference motions.
2.95 Decision on motion to dissolve.
2.96 Issues; burden of proof.
2.97 Enlargement of issues.
2.98 Adding party to interference.
2.99 Application to register as concurrent user.

OPPOSITION

- 2.101 Time for filing notice of opposition.
2.102 Extension of time.
2.103 Notice filed by attorney or agent.
2.104 Contents of notice of opposition.
2.105 Institution of opposition.
2.106 Answer.

CANCELLATION

- 2.111 Time for filing petition for cancellation.
2.112 Petition for cancellation.
2.113 Notice of filing of petition.
2.114 Answer.

PROCEDURE IN INTER PARTES PROCEEDINGS

- 2.117 Federal Rules of Civil Procedure.
2.118 Undelivered Office notices.
2.119 Service of papers.
2.120 Discovery procedure.
2.121 Assignment of times, for taking testimony.
2.122 Matters in evidence.
2.123 Testimony in inter partes cases.
2.124 Testimony by written questions.
2.125 Copies of testimony.
2.126 Allegations in application not evidence on behalf of applicant.

- 2.127 Motions.
2.128 Final hearing and briefs.
2.129 Oral argument.
2.130 New matter suggested by Examiner of Trademarks.
2.131 Ex parte action by the Examiner of Interferences.
2.132 Failure to take testimony.
2.133 Amendment of application or registration during proceedings.
2.134 Surrender or cancellation of registration.
2.135 Abandonment of application, abandonment or disclaimer in whole of mark, concession of priority.
2.136 Status of application on termination of proceedings.

APPEALS

- 2.141 Ex parte appeals to the Commissioner from the Examiner of Trademarks.
2.142 Time and manner of ex parte appeals.
2.143 Appeal to the Commissioner from decision of Examiner of Interferences.
2.144 Reconsideration of decision on appeal.
2.145 Appeal to court.

PETITION AND ACTION BY THE COMMISSIONER

- 2.146 Petition to the Commissioner.
2.147 Cases not specifically defined.
2.148 Commissioner may suspend certain rules.

CERTIFICATE

- 2.151 Certificate.

PUBLICATION OF MARKS REGISTERED UNDER 1905 ACT

- 2.153 Publication requirements.
2.154 Publication in Official Gazette.
2.155 Notice of publication.
2.156 Not subject to opposition; subject to cancellation.

REREGISTRATION OF MARKS REGISTERED UNDER PRIOR ACTS

- 2.158 Reregistration of marks registered under acts of 1881, 1905 and 1920.

CANCELLATION FOR FAILURE TO FILE AFFIDAVIT DURING SIXTH YEAR

- Sec.
2.161 Cancellation for failure to file affidavit during sixth year.
2.162 Requirements for affidavit.
2.163 Acknowledgment of receipt of affidavit.
2.164 Reconsideration of affidavit.
2.165 Time of cancellation.

AFFIDAVIT UNDER SECTION 15

- 2.167 Affidavit under section 15.
2.168 Combined with other affidavits.

CORRECTION, DISCLAIMER, SURRENDER, ETC.

- 2.171 New certificate on change of ownership.
2.172 Surrender for cancellation, disclaimer in whole.
2.173 Amendment and disclaimer in part.
2.174 Correction of Office mistake.
2.175 Correction of mistake by registrant.
2.176 Consideration of above matters.

TERM AND RENEWAL

- 2.181 Term of original registrations and renewals.
2.182 Period within which application for renewal must be filed.
2.183 Requirements of application for renewal.
2.184 Refusal of renewal.

ASSIGNMENT OF MARKS

- 2.185 Requirements for assignments.
2.186 Action may be taken by assignee of record.
2.187 Certificate of registration may issue to assignee.

AMENDMENT OF RULES

- 2.189 Amendments to rules.

AUTHORITY: §§ 2.1 to 2.189 issued under sec. 41, 60 Stat. 440, 66 Stat. 793; 15 U. S. C. 1123, 35 U. S. C. 6. Statutory provisions interpreted or applied are cited to text.

§ 2.1. Sections of Part 1 applicable. Sections 1.1 to 1.26 of this chapter are applicable to trademark cases except such parts thereof which specifically refer to patents. Other sections of Part 1 incorporated by reference or referred to in particular sections of this part are also applicable to trademark cases.

§ 2.6 Trademark fees. In addition to the fees prescribed by statute, the following fees and charges are established by the Patent Office for trademark cases:

- | | |
|--|--------|
| (a) For each printed copy of a registration with data entered of record as of date of mailing, relating to renewal, cancellation, publication under section 12 (c) of the 1946 Trademark Act and affidavits under sections 8 and 15 of such act..... | \$0.50 |
| (b) For photocopies of records and papers, per sheet..... | .30 |
| (c) For photoprints of drawings..... | .30 |
| (d) For making drawings, when they can be made by the Patent Office, the cost of making the same, minimum charge..... | 5.00 |
| (e) For correcting drawings, 30 cents for photoprint of uncorrected drawing, and the cost of making correction, minimum charge for making the correction..... | 1.00 |

See § 1.21 for patent and miscellaneous fees.

REPRESENTATION BY ATTORNEYS AND AGENTS

AUTHORITY NOTE: §§ 2.11 to 2.19 interpret or apply 66 Stat. 795; 35 U. S. C. 31, 32.

§ 2.11 Applicants may be represented by an attorney. The owner of a trademark may file and prosecute his own application for registration of such trademark, or he may be represented by an attorney or other person authorized to practice in trademark cases. The Patent Office cannot aid in the selection of an attorney or agent.

§ 2.12 Persons who may practice before the Patent Office in trademark cases. (a) Attorneys at law. Attorneys at law in good standing admitted to practice before the highest court of any State or Territory of the United States or of the District of Columbia, may practice before the Patent Office in trademark cases. No register of attorneys who may practice before the Patent Office in trademark cases is maintained, and no application by an attorney at law for admission to such practice is required. A statement in the power of attorney, or in an accompanying paper, of the bar to which the attorney is admitted is required, and recognition is limited to each case.

(b) Non-lawyers: Persons who are not attorneys at law as specified in paragraph (a) of this section are not recognized to practice before the Patent Office in trademark cases, except that persons not attorneys at law who were recognized for such practice under the rules prior to August 15, 1955 (former § 100.42) and who in fact practiced in connection with applications for registration filed since July 5, 1947, will be recognized as agents to continue practice in trademark cases in the Patent Office: *Provided*, That, before December 31, 1955, a statement is filed with the Commissioner of Patents requesting that recognition to practice be so continued, specifying the basis therefor.

(c) Foreign attorneys and agents: Any foreign attorney or agent not a resident of the United States who shall file proof to the satisfaction of the Commissioner that he is registered and in good standing before the patent or trademark office of the country in which he resides and practices, may be recognized to represent applicants located in such country before the United States Patent Office in the presentation and prosecution of trademark applications: *Provided*, That the patent or trademark office of such country allows substantially reciprocal privileges to those permitted to practice in trademark cases before the United States Patent Office. Such recognition shall continue only during the period that the conditions specified obtain.

(d) Recognition of any person under this section is not to be construed as sanctioning or authorizing the performance of any acts regarded in the jurisdiction where performed as the unauthorized practice of law.

(e) No persons other than those mentioned in paragraphs (a) and (b) of this section will be permitted to practice before the Patent Office in trademark cases. Any person may appear for himself, or for a firm of which he is a member, or for a corporation or association of which he is an officer and which he is authorized to represent, if such person,

firm, corporation, or association is a party to the proceeding.

(f) Persons otherwise entitled to be recognized to practice under this section may, nevertheless, be refused recognition for cause.

§ 2.13 Professional conduct. Attorneys and other persons appearing before the Patent Office in trademark cases must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts.

§ 2.14 Advertising. (a) The use of display advertising, circulars, letters, cards, and similar material to solicit trademark business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Patent Office or suspended or excluded from further practice.

(b) The use of simple professional letterheads, calling cards, or office signs; simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends, and insertion of professional cards, listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories are not prohibited.

(c) No agent shall, in any material specified in paragraph (b) of this section or in papers filed in the Patent Office, represent himself to be an attorney, solicitor or lawyer.

§ 2.15 Signature and certificate of attorney or agent. Every paper filed by an attorney or other recognized person representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or person, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants or registrants). The signature of an attorney or such other person to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a registered firm, such papers must carry the signature of the firm, or the signature of an individual member of the firm or an individual registered attorney or agent employed by the firm and duly authorized to sign on behalf of the firm in addition to the firm name, and the certification constituted by the signing or presentation of the paper shall be a certification by and on behalf of the firm and by the individual.

§ 2.16 Suspension or exclusion from practice. The Commissioner of Patents may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent Office any person, attorney, or agent shown to

be incompetent or disreputable, or guilty of unethical or unprofessional conduct or gross misconduct, or who refuses to comply with the rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant or other person having immediate or prospective business before the Patent Office, by word, circular, letter, or in any other manner. The reasons for any such suspension or exclusion shall be duly recorded. Proceedings for suspension, disbarment or exclusion from practice are conducted as provided in § 1.348. (See 35 U. S. C. 1952, sec. 32 for review of the Commissioner's action by the District Court of the United States for the District of Columbia.)

§ 2.17 *Power of attorney or authorization of agent.* Before any attorney or other recognized person will be allowed to inspect papers in any application prior to publication under § 2.81, or to take action of any kind in any application or proceeding, a written power of attorney or authorization, from the person or persons entitled to prosecute the application, or from the principal attorney or agent, must be filed in that particular application or proceeding.

§ 2.18 *Correspondence held with attorney or agent.* When an attorney or other recognized person shall have filed his power of attorney or authorization, duly executed, the correspondence will be held with him. Double correspondence with an applicant or other party and his attorney, or with two attorneys, will not be undertaken. If more than one attorney or agent be appointed, correspondence will be held with the one last appointed unless otherwise requested.

§ 2.19 *Revocation of power of attorney or authorization of agent.* A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case upon notification to the Commissioner and, when it is so revoked, the Office will communicate directly with the applicant or with such other attorney or agent as he may appoint. An attorney or agent will be notified of the revocation of his power or authorization.

APPLICATION FOR REGISTRATION

§ 2.21 *Parts of application.* A complete application for registration comprises:

- (a) A written application (see §§ 2.31 to 2.47)
- (b) A drawing of the mark (see §§ 2.51 to 2.55)
- (c) Five specimens or facsimiles (see §§ 2.56 to 2.58)
- (d) The required filing fee;
- (e) A certified copy of the registration in the country of origin if the application is based on such foreign registration pursuant to section 44 (e) of the act (see § 2.39)

AUTHORITY NOTE: §§ 2.21 to 2.47 interpret or apply sec. I, 60 Stat. 427; 15 U. S. C. 1051.

§ 2.22 *Application must be complete to receive filing date.* An application will not be considered filed unless all the required parts specified in § 2.21, com-

plying with the rules relating thereto, are received, but minor informalities may be waived subject to subsequent correction. If the papers are incomplete or so defective that they cannot be accepted, the applicant will be notified and the papers and fee held six months for completion. If the application is not completed within such time, the papers and fee will be returned to the applicant or otherwise disposed of; the drawing or fee of an unaccepted application may be transferred to a later application.

§ 2.23 *Serial number and filing date.* Complete applications will be numbered as received, and the applicant will be informed of the serial number and filing date of the application. The filing date of the application is the date on which the complete application is received in the Patent Office in acceptable form.

§ 2.24 *Designation of representative by foreign applicant.* If the applicant is not domiciled in the United States, he must designate by a written document filed in the Patent Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. If this document does not accompany or form part of the application, it will be required and registration refused unless it is supplied. Official communications of the Patent Office will be addressed to the domestic representative unless the applicant has appointed an attorney; the mere designation of such representative is not a power of attorney and the representative will not be recognized as the attorney unless qualified under § 2.12 and a power of attorney is filed.

§ 2.25 *Papers not returnable.* After an application is filed the papers will not be returned for any purpose whatever; but the Office will furnish copies to the applicant upon request and payment of the fee.

§ 2.26 *Use of old drawing in new application.* In an application filed in place of an abandoned or rejected application, or in an application for reregistration (§ 2.158) a new complete application is required, but the old drawing, if suitable, may be used. The application must be accompanied by a request for the transfer of the drawing, and by a permanent photographic copy, or an order for such copy, of the drawing to be placed in the original file. A drawing so transferred, or to be transferred, cannot be amended.

§ 2.27 *Application confidential prior to publication, access to applications.* (a) An index of pending applications stating the name and address of the applicant, a description of the mark, the goods or services with which the mark is used, the class number, the dates of use, and the serial number and filing date of the application will be available for public inspection as soon as practicable after filing. Access to files of pending trademark applications will not be given prior to publication under § 2.81 without the written authority of the applicant, or unless, in the opinion of the Commissioner, good cause has been shown for

such access. Decisions of the Commissioner in applications and proceedings relating thereto are published or available for inspection or publication.

(b) After a mark has been registered, or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

THE WRITTEN APPLICATION

§ 2.31 *Application must be in English.* The application must be in the English language and plainly written on but one side of the paper. Legal size paper, typewritten double spaced, with at least a one and one-half inch margin on the left-hand side and top of the page, is deemed preferable.

§ 2.32 *Application to be signed and sworn to by applicant.* (a) The application must be made to the Commissioner of Patents and must be signed and verified (sworn to) by the applicant or by a member of the firm or an officer of the corporation or association applying.

(b) Re-executed papers or a verified statement of continued use of the mark may be required when the application has not been filed in the Patent Office within a reasonable time after the date of execution.

(c) The signature to the application must be the correct name of the applicant, since the name will appear in the certificate of registration precisely as it is signed to the application. The name of the applicant, wherever it appears in the papers of the application, will be made to agree with the name as signed.

§ 2.33 *Requirements for application.* (a) (1) The application shall include a request for registration and shall specify:

- (i) The name of the applicant;
- (ii) The citizenship of the applicant; if the applicant be a partnership, the names and citizenship of the general partners or, if the applicant be a corporation or association, the state or nation under the laws of which organized;
- (iii) The domicile and post office address of the applicant;
- (iv) That the applicant has adopted and is using the mark shown in the accompanying drawing;
- (v) The particular goods on or in connection with which the mark is used;
- (vi) The class of merchandise according to the official classification, if known to the applicant;
- (vii) The date of applicant's first use of the mark as a trademark on or in connection with goods specified in the application (see § 2.38)
- (viii) The date of applicant's first use in commerce of the mark as a trademark on or in connection with goods specified in the application, specifying the nature of such commerce (see § 2.38)
- (ix) The mode, manner or method of applying, affixing or otherwise using the mark on or in connection with the goods specified.

(2) If more than one item of goods is specified in the application, the dates of use required in subparagraph (1) (vii)

and (viii) of this paragraph need be for only one of the items specified, provided the particular item to which the dates apply is designated.

(3) The word commerce as used throughout this part means commerce which may lawfully be regulated by Congress, as specified in section 45 of the act.

(b) The application must also include averments to the effect that the applicant or other person making the verification believes himself or the firm, corporation, or association in whose behalf he makes the verification to be the owner of the mark sought to be registered; that the mark is in use in commerce, specifying the nature of such commerce; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use such mark in commerce, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive; that the specimens or facsimiles show the mark as actually used in connection with the goods; and that the facts set forth in the application are true.

§ 2.34 [Reserved.]

§ 2.35 *Description of mark.* A description of the mark, which must be acceptable to the Examiner of Trademarks, may be included in the application, and must be included if required by the examiner. If the mark is displayed in color or a color combination, they should be described in the application.

§ 2.36 *Identification of prior registrations.* Prior registrations of the same or similar marks owned by the applicant should be identified in the application.

§ 2.37 *Power of attorney, domestic representative.* The power of attorney or authorization of agent (§ 2.17) and the appointment of a domestic representative (§ 2.24) may be included as a paragraph or paragraphs in the application.

§ 2.38 *Use by predecessor or by related companies.* (a) If the first use, the date of which is required by paragraph (a) (1) (vii) or (viii) of § 2.33, was by a predecessor in title, or by a related company (sections 5 and 45 of the act) and such use inures to the benefit of the applicant, the date of such first use may be asserted with a statement that such first use was by the predecessor in title or by the related company as the case may be.

(b) If the mark is not in fact being used by the applicant but is being used by one or more related companies whose use inures to the benefit of the applicant under section 5, such facts must be indicated in the application.

(c) The Office may require such details concerning the nature of the relationship and such proofs as may be necessary and appropriate for the purpose of showing that the use by related companies inures to the benefit of the applicant and does not affect the validity of the mark.

(Sec. 5, 60 Stat. 429; 15 U. S. C. 1055)

§ 2.39 *Omission of allegation of use by foreign applicants.* (a) The allega-

tions of use, required by § 2.34, and the statements of the dates of the applicant's first use, required by § 2.33 (a) (1) (vii) and (viii) may be omitted in the case of an application, filed pursuant to section 44 (e) of the act, for registration of a mark duly registered in the country of origin of a foreign applicant, provided the application when filed is accompanied by a certificate of the trademark office of the foreign country showing that the mark has been registered in the country of origin of the applicant and also showing the mark, the goods for which registered and that said registration is then in full force and effect. A sworn translation of the certificate, if not in the English language, may be required after the application is filed.

(b) Such allegations and statements may also be omitted in the case of an application claiming the benefit of a prior foreign application in accordance with section 44 (d) of the act. The application in such case shall state the date and country of the first foreign application and, before the application can be considered as allowable, there must be filed a certificate of the trademark office of the foreign country showing that the mark has been registered in the country of origin of the applicant and also showing the mark, the goods for which registered and the date of filing of the application. In such cases the specification of goods shall not exceed the scope of that covered by the foreign registration or application.

(Sec. 44, 60 Stat. 441; 15 U. S. C. 1120)

§ 2.41 *Proof of distinctiveness under section 2 (f)* (a) When registration is sought of a mark which would be unregistrable by reason of section 2 (e) but which is claimed to have become distinctive, the application shall allege that the mark is claimed to have become distinctive of applicant's goods as a result of substantially exclusive and continuous use in commerce for the five years next preceding the filing of the application, except that when the claim of distinctiveness is based on facts and circumstances other than five years' substantially exclusive use, the application shall allege that the mark is claimed to have become distinctive of applicant's goods as evidenced by proofs submitted.

(b) In either case, further evidence in support of the claim of distinctiveness may be required. Evidence in support of a claim of distinctiveness may be in the form of affidavits, depositions, or in such other form as may be appropriate.

(c) When the allegation of distinctiveness is added to the application subsequent to filing, facts stated in support thereof must be verified by the applicant.

(Sec. 2, 60 Stat. 428; 15 U. S. C. 1052)

§ 2.42 *Concurrent use.* (a) When an application to register is based on concurrent lawful use, the applicant shall state in the application, to the extent of his knowledge, the concurrent lawful use of the mark by others, setting forth their names and addresses; registrations issued to, or applications filed by, such others, if any; the areas of such use; the

goods on or in connection with which such use is made; the mode of such use; the periods of such use; and the area, the goods, and the mode of use for which the applicant seeks registration.

(b) The verification shall be made with the stated exceptions.

(Sec. 2, 60 Stat. 428; 15 U. S. C. 1052)

§ 2.43 *Service mark.* In an application to register a service mark, the application shall specify and contain all the elements required by the preceding sections for trademarks, but shall be modified to relate to services instead of to goods wherever necessary.

(Sec. 3, 60 Stat. 429; 15 U. S. C. 1053)

§ 2.44 *Collective mark.* In an application to register a collective mark, the application shall specify and contain all applicable elements required by the preceding sections for trademarks, but shall, in addition, specify the class of persons entitled to use the mark, indicating their relationship to the applicant, and the nature of the applicant's control over the use of the mark.

(Sec. 4, 60 Stat. 429; 15 U. S. C. 1054)

§ 2.45 *Certification mark.* In an application to register a certification mark, the application shall specify and contain all applicable elements required by the preceding sections for trademarks. It shall, in addition, specify the manner in which and the conditions under which the certification mark is used; it shall allege that the applicant exercises legitimate control over the use of the mark and that he is not himself engaged in the production or marketing of the goods or services to which the mark is applied. See § 2.86.

(Sec. 4, 60 Stat. 429, 435; 15 U. S. C. 1054)

§ 2.46 *Principal Register.* All applications will be treated as seeking registration on the Principal Register unless otherwise stated in the application. Service marks, collective marks, and certification marks, registrable in accordance with the applicable provisions of section 2 of the act, are registered on the Principal Register.

§ 2.47 *Supplemental Register.* In an application to register on the Supplemental Register, the application shall so indicate and shall specify that the mark has been in continuous use in commerce, specifying the nature of such commerce, by the applicant for the preceding year, if the application is based on such use. When an applicant requests registration without a full year's use of the mark, in accordance with the last paragraph of section 23 of the act of 1946, the showing required must be separate from the application.

(Sec. 23, 60 Stat. 435; 15 U. S. C. 1091)

DRAWING

AUTHORITY NOTE: §§ 2.51 to 2.55 interpret or apply sec. 1, 60 Stat. 427; 15 U. S. C. 1051.

§ 2.51 *Drawing required.* (a) The drawing of the trademark shall be a substantially exact representation thereof as actually used on or in connection with the goods.

(b) The drawing of a service mark shall be a substantially exact representation of the mark as used in the sale or advertising of the services. The drawing of a service mark may be dispensed with in the case of a mark not capable of representation by a drawing, but in any such case the application must contain an adequate description.

(c) In the case of an application for registration on the Supplemental Register, the drawing, when appropriate and necessary (section 23, third paragraph, of the act) may be the drawing of a package or configuration of goods.

(d) If the application is for the registration only of a word, letter or numeral, or any combination thereof, not depicted in special form, the drawing may be the mark typed in capital letters on paper, otherwise complying with the requirements of § 2.52.

§ 2.52 *Requirements for drawings—*
(a) *Character of drawing.* All drawings, except as otherwise provided, must be made with the pen or by a process which will give them satisfactory reproduction characteristics. A photolithographic reproduction or printer's proof copy may be used if otherwise suitable. Every line and letter must be black. This direction applies to all lines, however fine, and to shading. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. The requirements of this paragraph are not necessary in the case of drawings permitted and filed in accordance with paragraph (d) of § 2.51.

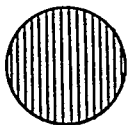
(b) *Paper and ink.* The drawing must be made upon pure white durable paper, the surface of which is calendered and smooth. A good grade of bond paper is suitable. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(c) *Size of paper and margins.* The size of the sheet on which a drawing is made must be 8 inches wide and 11 to 13 inches long. One of the shorter sides of the sheet should be regarded as its top. When the figure is longer than the width of the sheet, the sheet should be turned on its side with the top at the right. The size of the mark must be such as to leave a margin of at least one inch on the sides and bottom of the paper and at least one inch between it and the heading.

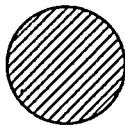
(d) *Heading.* Across the top of the drawing, beginning one inch from the top edge and not exceeding one-fourth of the sheet, there should be placed a heading, listing in separate lines, applicant's name, applicant's post office address, the dates of first use, and the goods or services recited in the application (or typical items of the goods or services if a number are recited in the application) This heading may be typewritten.

(e) *Linings for color* Where color is a feature of a mark, the color or colors employed may be designated by means of conventional linings as shown in the following color chart:

RED OR PINK



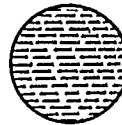
BROWN



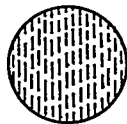
BLUE



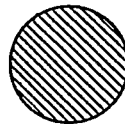
GRAY OR SILVER



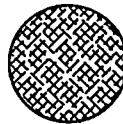
VIOLET OR PURPLE



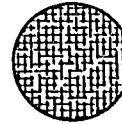
GREEN



ORANGE



YELLOW OR GOLD



§ 2.53 *Transmission of drawings.* Drawings transmitted to the Patent Office should be sent flat, protected by a sheet of heavy binder's board, or should be rolled for transmission in a suitable mailing tube to prevent mutilation. They should never be folded.

§ 2.54 *Informal drawings.* A drawing not in conformity with the foregoing rules may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before the mark can be published or the application allowed. The necessary corrections will be made by the Patent Office upon applicant's request and at his expense. Substitute drawings will not be accepted unless they have been required by the Examiner or correction of the original drawing would require that the mark be substantially entirely redrawn.

§ 2.55 *Patent Office may make drawings.* The Patent Office, at the request of applicants and at their expense, will make drawings if facilities permit.

SPECIMENS

AUTHORITY NOTE: §§ 2.56 to 2.58 interpret or apply sec. 1, 60 Stat. 427; 15 U. S. C. 1051.

§ 2.56 *Specimens.* The five specimens of a trademark shall be specimens of the trademark as actually used on or in connection with the goods in commerce, and shall be duplicates of the actually used labels, tags, or containers, or the displays associated therewith or portions thereof, when made of suitable material and capable of being arranged flat and of a size not larger than the size of the drawing.

§ 2.57 *Facsimiles.* When, due to the mode of applying or affixing the trademark to the goods, or to the manner of using the mark on the goods, or to the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not larger than the size specified for the drawing and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

§ 2.58 *Specimens or facsimiles in the case of a service mark.* (a) In the case of service marks, specimens or facsimiles as specified in §§ 2.56 and 2.57, of the

mark as used in the sale or advertising of the services shall be furnished unless impossible because of the nature of the mark or the manner in which it is used, in which event some other representation acceptable to the Commissioner must be submitted.

(b) In the case of service marks not used in printed or written form, three single face, unbreakable, disc recordings will be accepted. The speed at which the recordings are to be played must be specified thereon. If facilities are not available to the applicant to furnish recordings of the required type, the Patent Office may arrange to have made, upon request, and at applicant's expense, the necessary disc recordings from any type of recording the applicant submits.

EXAMINATION OF APPLICATION AND ACTION BY APPLICANTS

AUTHORITY NOTE: §§ 2.61 to 2.69 interpret or apply sec. 12, 60 Stat. 432; 15 U. S. C. 1062.

§ 2.61 *Action by Examiner* (a) Applications for registration will be examined or caused to be examined by the Examiner of Trademarks, and, if the applicant is found not entitled to registration for any reason, he will be so notified and advised of the reasons therefor and of any formal requirements or objections.

(b) The examiner may require the applicant to furnish such information and exhibits as may be reasonably necessary to the proper examination of the application.

§ 2.62 *Period for response.* The applicant has six months from the date of mailing of any action by the Patent Office to respond thereto. Such response may be made with or without amendment and must include such proper action by the applicant as the nature of the action and the condition of the case may require.

§ 2.63 *Re-examinations.* After response by the applicant, the application will be re-examined or reconsidered, and if the registration is again refused or formal requirements insisted upon, but not stated to be final, the applicant may respond again.

§ 2.64 *Final action.* On the first or any subsequent re-examination or reconsideration the refusal of the registra-

tion or the insistence upon a requirement may be stated to be final, whereupon applicant's response is limited to an appeal or to a compliance with any requirement.

§ 2.65 Abandonment. If an applicant fails to respond, or to respond completely, within six months after the date an action is mailed, the application shall be deemed to have been abandoned.

§ 2.66 Revival of abandoned applications. An application abandoned for failure to respond may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, and by the proposed response, unless the same has been previously filed.

§ 2.67 Suspension of action by Patent Office. (a) Action by the Patent Office may be suspended for a reasonable time specified upon request of the applicant for good and sufficient cause. Only one suspension will be granted by the Examiner, and any further suspension must be approved by the Commissioner. No such suspension can extend any time fixed by statute for a response by the applicant.

(b) If registration is refused on the basis of a prior registration and the applicant files a petition to cancel the reference registration, such action upon notice thereof being placed in the application file by the applicant within the time for reply, may be taken as a response to the rejection, and further action by the Office may, at applicant's request, be suspended pending the termination of the cancellation proceeding.

§ 2.68 Express abandonment. An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment signed by the applicant or, if assigned, by the assignee.

§ 2.69 Compliance with other laws. When the sale or transportation of any product for which registration of a trademark is sought is regulated under an Act of Congress, the Office may, before allowance, make appropriate inquiry as to compliance with such act for the sole purpose of determining lawfulness of the commerce recited in the application.

AMENDMENT OF APPLICATION

AUTHORITY NOTE: §§ 2.71 to 2.75 Interpret or apply sec. 12, 60 Stat. 432; 15 U. S. C. 1062.

§ 2.71 Amendments to application. (a) The application may be amended to correct informalities, or to avoid objections made by the Patent Office, or for other reasons arising in the course of examination. No amendments to the dates of use will be permitted unless such changes are supported by affidavit by the applicant and by such showing as may be required by the examiner.

(b) Additions to the specification of goods or services will not be permitted unless the mark was in actual use on all of the goods or services proposed to be added by the amendment at the time the

application was filed and unless the amendment is accompanied by additional specimens (or facsimiles) and by a supplemental affidavit by the applicant in support thereof.

(c) Amendment of the verification will not be permitted. If that filed with the application be faulty or defective, a substitute or supplemental verification must be filed.

§ 2.72 Amendments to description or drawing. Amendments to the description or drawing of the mark may be permitted only if warranted by the specimens (or facsimiles) as originally filed, or supported by additional specimens (or facsimiles) and a supplemental affidavit alleging that the mark shown in the amended drawing was in actual use prior to the filing date of the application. Amendments may not be made if the nature of the mark is changed thereby.

§ 2.73 Amendment to recite concurrent use. An application may be amended in the examiner's discretion so as to be treated as an application for a concurrent registration, provided the application as amended satisfies the requirements of § 2.42.

§ 2.74 Form of amendment. (a) In every amendment the exact word or words to be stricken out or inserted in the application must be specified and the precise point indicated where the deletion or insertion is to be made. Erasures, additions, insertions, or mutilations of the papers and records must not be made by the applicant or his attorney or agent.

(b) When an amendatory clause is amended, it must be wholly rewritten so that no interlineation or erasure will appear in the clause, as finally amended, when the application is passed to registration. If the number or nature of the amendments shall render it otherwise difficult to consider the case or to arrange the papers for printing or copying, or when otherwise desired to clarify the record, the examiner may require the entire statement to be rewritten.

§ 2.75 Amendment to change application to different register. An application for registration on the Principal Register may be changed to an application for registration on the Supplemental Register and vice versa by amending the application to comply with the rules relating to the requirements for registration on the appropriate register, as the case may be. The original filing date may be considered for the purpose of proceedings in the Patent Office provided the application as originally filed was sufficient for registration on the register to which amended. Otherwise, the filing date of the amendment will be considered the filing date of the application so amended. Only one such amendment will be permitted after an action by the examiner.

PUBLICATION AND ALLOWANCE

§ 2.81 Publication in Official Gazette. If, on examination or re-examination of an application for registration on the Principal Register, it appears that the applicant is entitled to have his mark

registered, the mark will be published in the Official Gazette for opposition.

§ 2.82 Allowance of application. If no notice of opposition is filed within the time permitted (§§ 2.101 and 2.102), or if filed and dismissed, and if no interference is declared, the examiner will sign the application file to indicate allowance and the application will be prepared for issuance of the certificate of registration as provided in § 2.151.

§ 2.83 Marks on Supplemental Register published only upon registration. In the case of an application for registration on the Supplemental Register the mark will not be published for opposition but if it appears, after examination or re-examination, that the applicant is entitled to have the mark registered, the examiner will sign the application file to indicate allowance and prepare the application for issuance of the certificate of registration as provided in § 2.151. The mark will be published in the Official Gazette when registered.

§ 2.84 Jurisdiction over published or allowed applications. (a) After publication or allowance the examiner may exercise jurisdiction over an application by special authority from the Commissioner.

(b) Amendments may be made after the allowance of an application if the certificate has not been printed, on the recommendation of the examiner approved by the Commissioner, without withdrawing the allowance.

CLASSIFICATION

AUTHORITY NOTE: §§ 2.85 to 2.89 Interpret or apply sec. 30, 60 Stat. 436; 15 U. S. C. 1112.

§ 2.85 Classification of goods and services. There is established, for convenience of administration, the classification of goods and services set forth in Part 6 of this Chapter. Such classification shall not limit or extend the applicant's rights.

§ 2.86 Plurality of goods or services comprised in single class may be covered by single application. A single application may recite a plurality of goods, or a plurality of services, comprised in a single class, provided the particular description of each of the goods or services be stated and the mark has actually been used on or in connection with all of the goods or in connection with all of the services specified.

§ 2.87 Original application must be limited to goods or services comprised in a single class. When a single application is filed to register a mark for both goods and services or for goods or services in different classes, registration will be refused, and the applicant will be required to restrict the application to goods or services comprised in a single class.

§ 2.88 Applications may be combined. (a) When several applications have been filed by the same applicant for registration on the same register of a mark shown in identical form on the drawings for goods in different classes, or services in different classes, and each of the applications has been allowed, a single certificate based on such several

applications may be issued. A request for the issuance of a consolidated certificate must be made of record in each of the applications involved prior to the allowance of any of the applications.

(b) The issuance of any original certificate may be suspended upon request of the applicant, for a period not exceeding six months, to permit such consolidation.

INTERFERENCES

AUTHORITY NOTE: §§ 2.91 to 2.99 Interpret or apply secs. 16, 17, 60 Stat. 434; 15 U. S. C. 1066, 1067.

§ 2.91 *Interferences.* (a) Whenever application is made for registration on the Principal Register of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive purchasers, an interference may be declared to exist.

(b) An interference will not be declared between two applications unless a date of use prior to the filing date of the earlier filed application is asserted in the later filed application.

(c) An interference will not be declared between an application and a registration unless the date of use asserted in the application is prior to the filing date of the application which resulted in the registration, but in any case an interference will not be declared between an application and a registration issued prior to the filing date of the application except upon specific authorization of the Commissioner.

(d) Registrations and applications to register on the Supplemental Register, registrations under the act of 1920, and registrations of marks the right to the use of which has become incontestable are not subject to interference.

§ 2.92 *Preliminary to interference.*

(a) Before the declaration of an interference, the marks which are to form the subject matter of the controversy must have been decided to be registrable by each party except for the interfering mark.

(b) The Examiner of Trademarks may require an applicant to put his application in condition for publication, within a time specified, not less than thirty days, in order that an interference may be declared. If any such applicant fails to put his application in condition for publication within the time specified, the declaration of interference will not necessarily be delayed.

(c) Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, the Examiner of Trademarks shall notify each of said parties and also the attorney of this fact.

§ 2.93 *Declaration of interference.* An interference is declared and instituted by the mailing of a notice of interference to the parties. The notice shall be sent to each applicant, in care of his attorney or agent of record, if any, and if one of the parties is a registrant, the notice shall be sent to him or his assignee of record. The notice shall

give the name and address of the adverse party and of his attorney or agent, if any, together with the serial number and date of filing and publication, if published, of each of the applications or registrations involved.

§ 2.94 *Interference motions.* (a) Motions to dissolve an interference may be brought on the ground (1) that no interference in fact exists, (2) that there has been such irregularity in declaring the same as will preclude a proper determination of the interference, or (3) that an applicant's mark is not registrable.

(b) Any party may bring a motion to add to the interference any other conflicting application which he may own.

(c) Motions under paragraph (a) or (b) of this section shall be made not later than forty days after the notice of interference is mailed and shall contain a full statement of the grounds relied upon. Such motions, if in proper form, will be transmitted to the Examiner of Trademarks for determination. Such transmittal will act as a stay of proceedings pending the determination of the motion. If the motion is not in proper form or if it is not brought within the time specified and no good cause is shown for the delay, it will not be considered, and the parties will be so notified. Any brief in support of a motion shall be embodied in or accompany the motion and any statement or brief in opposition to a motion shall be filed within twenty days after service of the motion; if not so filed, consideration thereof may be refused. Oral hearings will be held only at the request of any of the parties.

§ 2.95 *Decision on motion to dissolve.* The decision of the Examiner of Trademarks upon a motion for dissolution will be binding upon the Examiner of Interferences unless reversed or modified on appeal. Appeal may be taken to the Commissioner from a decision granting a motion to dissolve. No appeal may be had from a decision denying a motion to dissolve, but the question may be reviewed by the Commissioner on appeal from the final decision of the Examiner of Interferences.

§ 2.96 *Issues; burden of proof.* The issue in an interference between applications shall be the respective rights of the parties to registration on the applications presented, on the basis of priority of adoption and use. The issue in an interference between an application and a registration shall be the same, including, in the case of the registrant, the right to maintain the registration on the same basis, and if the final judgment is adverse to the registrant, the registration will be canceled unless good and sufficient reasons are presented for other action. The party whose application or registration involved in the interference has the latest filing date (the junior party) will be regarded as having the burden of proof.

§ 2.97 *Enlargement of issues.* Any party to an interference may, within fifty days after the notice of interference is mailed, file a pleading setting forth affirmatively any matter, other than the

issue specified in § 2.96 on the basis of which, if proved, the other party would not be entitled to prevail or would not be entitled to obtain or maintain a registration. Such pleading may request affirmative relief by way of cancellation of a registration involved, but no defense attacking the validity of such registration may be otherwise raised in the proceeding. A reply to such request for affirmative relief is required within twenty days after service thereof, but no reply need be filed to other affirmative defenses.

§ 2.98 *Adding party to interference.* If, during the pendency of an interference, another case appears involving substantially the same registrable subject matter, the Examiner of Trademarks may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by the Examiner of Interferences if no testimony has been taken. If, however, any testimony has been taken, a notice for the proposed new party disclosing the issue in interference and the names and address of the interferants and of their attorneys or agents, and notices for the interferants disclosing the name and address of the said party and his attorney or agent, shall be prepared by the Examiner of Trademarks and forwarded to the Examiner of Interferences, who shall make such inquiries as are deemed necessary to determine the question of admissibility of the new party. If the Examiner of Interferences be of the opinion that the interference should be suspended and a new party added, he shall prescribe the terms for such suspension.

§ 2.99 *Application to register as concurrent user.* (a) An application for registration as a lawful concurrent user will be examined in the same manner as other applications for registration. When it is determined that the mark is ready for publication or allowance, except for questions relating to concurrent registration, the applicant may be required to furnish as many copies of his written application, specimens and drawing, as may be necessary. The Examiner of Trademarks shall prepare notices for the applicant and for each applicant, registrant, or user specified in the application for registration as a concurrent user. Such notices for the specified parties shall give the name and address of the applicant and of his attorney or agent, if any, together with the serial number and filing date of the application.

(b) The notices shall be sent by the Examiner of Interferences to each of the parties, in care of their attorneys, if they have attorneys of record, and if one of the parties is a registrant, a notice shall also be sent to him or his assignee of record. A copy of the application shall be forwarded with the notices to the parties specified in the application. An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified in the application to register as concurrent user but a statement, if desired, may be filed within forty days after the mailing

of the notice; in the case of other parties specified in the application to register as concurrent user, answer must be filed within forty days after the mailing of the notice.

(c) The procedure shall follow the practice in interference proceedings insofar as it is applicable and the time limitations prescribed in such practice shall be applicable herein.

(Sec. 2, 60 Stat. 428, 434; 15 U. S. C. 1052)

OPPOSITION

AUTHORITY NOTE: §§ 2.101 to 2.106 interpret or apply secs. 13, 17, 60 Stat. 433, 434; 15 U. S. C. 1063, 1067.

§ 2.101 *Time for filing notice of opposition.* Any person who believes that he would be damaged by the registration of a mark upon the Principal Register may, upon payment of the required fee, oppose the same by filing a verified notice of opposition in the Patent Office within thirty days after the publication (§ 2.81) of the mark sought to be registered.

§ 2.102 *Extension of time.* A request to extend the time for filing a notice of opposition must be received in the Patent Office before the expiration of thirty days from the date of publication, and should be accompanied by a showing of good cause for the extension requested and specify the period of extension desired. In the event circumstances do not permit submission of such showing of good cause with the request, it should be furnished as promptly as possible and, in any event, within ten days after submission of such request.

§ 2.103 *Notice filed by attorney or agent.* An unverified notice of opposition may be filed by a duly authorized attorney or agent. The unverified notice and the required fee must be filed in the Patent Office within thirty days after publication (§ 2.81) of the mark sought to be registered, but such opposition will be null and void unless verified by the opposer and the verification or verified notice filed in the Patent Office within thirty days after such filing, or within such further time after such filing as may be fixed by the Commissioner upon request made before the expiration of said thirty days.

§ 2.104 *Contents of notice of opposition.* The notice of opposition must allege facts tending to show why the opposer would be damaged by the registration of the opposed mark and state the specific grounds for opposition. A duplicate copy of the notice of opposition including exhibits shall be filed.

§ 2.105 *Institution of opposition.* (a) When a notice of opposition is filed, the Examiner of Trademarks shall transmit the same, if regularly filed, to the Examiner of Interferences.

(b) A notice shall be prepared, identifying the title and number of the proceeding and the application involved, and designating a time, not less than thirty days from the mailing date of such notice, within which answer must be filed. Copies of this notice shall be forwarded by the Examiner of Interferences to the parties in care of their attorneys

or agents, if they have attorneys or agents of record. The duplicate copy of the notice of opposition and exhibits shall be forwarded with the notice to the applicant.

§ 2.106 *Answer* (a) If no answer is filed within the time set, the opposition may be decided as in case of default.

(b) An answer may contain any affirmative defense, including a request for affirmative relief by way of cancellation of a registration pleaded in the notice of opposition, but no defense attacking the validity of such registration may be otherwise raised in the proceeding. A reply to such a request for affirmative relief is required within twenty days after service thereof, but no reply need be filed to other affirmative defenses.

(c) The notice of opposition may be withdrawn without prejudice before the answer is filed. After answer is filed the notice may not be withdrawn without prejudice except with the consent of the applicant.

CANCELLATION

AUTHORITY NOTE: §§ 2.111 to 2.114 interpret or apply secs. 14, 17, 24, 60 Stat. 433, 434; 15 U. S. C. 1064, 1067, 1092.

§ 2.111 *Time for filing petition for cancellation.* Any person who believes that he is or will be damaged by a registration may, upon payment of the required fee, apply to the Commissioner to cancel said registration. Such petition may be made at any time in the case of registrations on the Supplemental Register or under the act of 1920, or registration under the act of 1881 or the act of 1905 which have not been published under section 12 (c) of the act (§ 2.153), and in cases involving the ground specified in section 14 (c) and (d) of the act. In all other cases such petition must be made within five years from the date of registration of the mark under the act of 1946 or from the date of publication under section 12 (c) of the act.

§ 2.112 *Petition for cancellation.* The petition to cancel, which must be verified, must allege facts tending to show why the petitioner believes he is or will be damaged by the registration, state the specific grounds for cancellation, and indicate the respondent party to whom notice shall be sent. A duplicate copy of the petition, including exhibits, and an order for a title report for Office use (or an abstract of title) of the mark sought to be canceled shall be filed with the petition. Applications to cancel different registrations owned by the same party may be joined in one petition when appropriate, but the fee for each application to cancel a registration must accompany the petition.

§ 2.113 *Notice of filing of petition.* (a) When a petition for cancellation is filed, it shall be transmitted to the Examiner of Interferences, who shall make examination thereof to determine if it is formally correct. If he be of the opinion that the petition is defective as to form, he shall so advise the party filing the same and set a time for correcting the informality.

(b) When the petition is correct as to form a notice shall be prepared, identifying the title and number of the pro-

ceeding and the registration involved, and designating a time, not less than thirty days from the mailing date of such notice, within which answer must be filed. Copies of this notice shall be forwarded by the Examiner of Interferences to the parties in care of their attorneys or agents, if they have attorneys or agents of record. The duplicate copy of the petition and exhibits shall be forwarded with the notice to the registrant.

§ 2.114 *Answer.* (a) If no answer is filed within the time set, the petition may be decided as in case of default.

(b) An answer may contain any affirmative defense, including a request for affirmative relief by way of cancellation of a registration pleaded in the petition, but no defense attacking the validity of such registration may be otherwise raised in the proceeding. A reply to such a request for affirmative relief is required within twenty days after service thereof, but no reply need be filed to other affirmative defenses.

(c) The petition for cancellation may be withdrawn without prejudice before the answer is filed. After the answer is filed the petition may not be withdrawn without prejudice except with the consent of the registrant.

PROCEDURE IN INTER PARTES PROCEEDINGS

AUTHORITY NOTE: §§ 2.117 to 2.136 interpret or apply sec. 17, 60 Stat. 434; 15 U. S. C. 1067.

§ 2.117 *Federal Rules of Civil Procedure.* (a) Except as otherwise provided, procedure and practice in inter partes proceedings shall be governed by the Rules of Civil Procedure for the District Courts of the United States wherever considered applicable and appropriate.

(b) The party having the latest filing date in an interference, the opposer in an opposition proceeding, the petitioner in a cancellation proceeding, and the applicant to register as a concurrent lawful user (or such applicant having the latest filing date), shall be deemed to be in the position of plaintiff, and the other parties to such proceedings shall be deemed to be in the position of defendants.

(c) The notice of opposition and the petition to cancel, and the answers thereto, correspond to complaint and answer in court proceedings. Such pleadings as may be filed in interference and concurrent registration proceedings will be treated as complaints or affirmative defenses, depending upon the party filing, but the filing of a pleading in such proceedings shall not operate to change the position of the parties as set forth in the preceding paragraph.

(d) The assignment of testimony periods corresponds to setting a case for trial in court proceedings.

(e) The taking of depositions during the assigned testimony periods corresponds to the trial in court proceedings.

(f) Oral hearing corresponds to oral summation in court proceedings.

§ 2.118 *Undelivered Office notices.* When the notices sent by the Patent Office to any registrant are returned to the Office undelivered, or when one of the parties resides abroad and his representative in the United States is un-

known, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

§ 2.119 *Service of papers.* (a) Every paper filed in the Patent Office in inter partes cases, including appeals, must be served upon the other parties as provided by § 1.248 except the notices of interference (§ 2.93) the notice of opposition (§ 2.105), the petition for cancellation (§ 2.113), and the notices of a concurrent use proceeding (§ 2.99) which are mailed by the Patent Office. Proof of such service must be made before the paper will be considered by the Office. A statement signed by the attorney or agent, attached to or appearing on the original paper, when filed clearly stating the time and manner in which service was made will be accepted as prima facie proof of service.

(b) When service is made by mail, the date of mailing will be considered the date of service. Whenever a party is required to take some action within a prescribed period after the service of a paper upon him by another party and the paper is served by mail, five days shall be added to the prescribed period.

§ 2.120 *Discovery procedure.* (a) *Interrogatories.* Any party to an opposition, interference, cancellation or concurrent use proceeding may, at any time after institution of the proceeding, but not later than thirty days prior to the date set upon which any testimony may be first taken, serve written interrogatories in duplicate on any adverse party. Within fifteen days after service of such interrogatories the party served, or an official thereof competent to testify as to the facts in its behalf, shall serve in duplicate on the interrogating party separate and full answers under oath: *Provided, however* That within such fifteen-day period the party served may file in the Patent Office objections to such interrogatories, or any portion thereof, accompanied by the original of the interrogatories. Any brief in support of such objections shall be filed with the objections. Any brief in opposition to the objections must be filed within fifteen days after service thereof. Answers to interrogatories to which objections are made shall be deferred pending decision on the objections, at which time an answer date will be fixed if necessary.

(b) *Scope of interrogatories.* Interrogatories may relate to any unprivileged matter peculiarly within the knowledge and control of the interrogated party which may be relevant and material to the claim or defense of the interrogating party or reasonably calculated to lead to the discovery of admissible evidence in support of such claim or defense, except that interrogatories are limited to inquiries with respect to the following: (1) the issues of abandonment, nonuse, title or fraud; (2) the existence, description, nature, custody or location of any books, documents or other tangible things; (3) the identity and addresses of persons having knowledge of designated facts mate-

rial to the issues; (4) a more particular description of the goods of the interrogated party; and (5) the first date of use which the interrogated party may claim for his mark.

(c) *Effect of interrogatories and answers.* (1) Interrogatories and answers thereto shall not be considered as a part of the record in the case unless the interrogating party files, before the close of his testimony period, a notice of reliance thereon, setting forth in said notice each interrogatory and the answer thereto to be relied upon. Such interrogatories and answers shall thereupon be considered as forming part of the record.

(2) Answers to interrogatories may not be introduced into the record by the interrogated party.

(d) *Discovery depositions.* (1) Any party to an opposition, interference, cancellation or concurrent use proceeding may, within the time specified for serving interrogatories, take depositions for discovery of relevant and material evidence in support of the claim or defense of such party, provided that the interrogation of persons shall relate only to unprivileged matter peculiarly within the knowledge and control of the interrogated party and shall be limited to the inquiries permitted in interrogatories for discovery. Reasonable notice of taking such depositions, not less than ten days, shall be given to all adverse parties to the proceeding, and examination and cross-examination may proceed in accordance with Rule 43 (b) Federal Rules of Civil Procedure.

(2) Discovery depositions may be used in accordance with Rule 26 (d) (1) (2) and (4) (e) and (f) of the Federal Rules of Civil Procedure provided the party offering the deposition, or any part thereof, in evidence files before the close of his testimony period, a notice of reliance thereon, setting forth in said notice the specific portions to be relied upon. So far as admissible under the rules of evidence, the specified portions of such depositions shall be considered as record evidence.

(e) *Requests for admissions.* (1) Any party to an opposition, interference, cancellation or concurrent use proceeding may within the time specified herein for serving interrogatories, serve in duplicate on any adverse party a written request for admission by the latter of the genuineness of any relevant documents described in and attached to the request (a photocopy may be attached provided the original is made available for inspection) or of the truth of any facts which are material and relevant to the issues and which are believed to be within the knowledge of both the party serving and the party served. Each of the matters in respect of which an admission is requested shall be deemed admitted unless, within fifteen days after service thereof, the party to whom the request is directed (i) serves upon the party requesting the admission a sworn statement denying specifically the matters in respect of which an admission is requested, or setting forth in detail the reasons why he cannot truthfully admit or deny those matters; or (ii) files written objections on the ground that some or all of the requested admissions are privileged or

immaterial or irrelevant, or that the request is otherwise improper in whole or in part. When objections are filed, any brief in support thereof shall accompany them, and the original of the request for admissions shall be attached to the objections filed. Any brief in opposition to the objections shall be filed within fifteen days after service thereof.

(2) If objections to a part of the requests are made, the remainder of the requests shall be answered within the period provided. Compliance with the requests to which objections are made shall be deferred pending decision on the objections, at which time a date will be fixed if necessary. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

(f) *Effect of admissions.* (1) Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may it be used against him in any other proceeding.

(2) Such admissions shall not be considered as a part of the record in the case unless one, or both, of the parties files, before the close of his testimony period, a notice of reliance thereon setting forth in said notice each request and admission relied upon. So far as admissible under the rules of evidence, such requests and admissions shall be considered as record evidence.

(g) *Motion to produce documents, etc. for inspection and copying.* Upon motion showing good cause therefor, an order may be entered requiring a party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated books, documents or other tangible things, not privileged, which constitute or contain material within the scope of inquiries permitted in interrogatories for discovery and which are in his possession, custody or control. The order shall specify a time for compliance therewith, and may prescribe such terms and conditions as may be just.

(h) *Refusal to make discovery.* If any party or deponent fails or refuses to answer any proper question propounded by interrogatories, or fails or refuses to answer proper questions in taking discovery depositions or fails or refuses to comply with an order to produce and permit the inspection and copying or photographing of designated things, the Examiner of Interferences may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment as by default against that party, or take such other action as may be deemed appropriate.

§ 2.121 *Assignment of times for taking testimony.* (a) Times will be assigned for the taking of testimony in behalf of each of the parties, and no testimony shall be taken except during the times assigned. If there be more than two

parties to an interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties, to rebut their evidence, and to meet the evidence of junior parties.

(b) The times will ordinarily be assigned in the notices sent by the Patent Office in interferences and in concurrent use proceedings, and in a notice sent after the answers have been filed in cases of opposition and cancellation.

§ 2.122 *Matters in evidence.* (a) The files of the applications or registrations specified in the declaration of interference or in the notice in case of concurrent registration proceedings, of the application against which a notice of opposition is filed, and of the registration against which a petition for cancellation or an affirmative defense requesting cancellation is filed, form part of the record of the proceeding without any action by the parties, and may be referred to for any relevant and competent purpose.

(b) A registration of the opposer or petitioner pleaded in a notice of opposition or petition to cancel will be received in evidence and made part of the record if two copies of the printed registration accompany the notice or petition. The Office will take notice of the fact shown by its records of renewal of such registrations, the publication thereof under section 12 (c) the filing of affidavits under section 8, and the filing of affidavits under section 15, and such matters need not be proven by the parties. Notice will also be taken of a recorded assignment identified in a notice of opposition or petition to cancel or other pleading, and such pleaded recorded paper need not be otherwise proved by the parties.

§ 2.123 *Testimony in inter partes cases.* (a) Testimony of witnesses in inter partes cases may be taken (1) by depositions on oral examination in accordance with §§ 1.273 to 1.281, 1.283, 1.285, 1.286 of this chapter; or (2) by written questions as provided by § 2.124 and by § 1.284 of this chapter.

(b) If the parties so stipulate in writing, deposition may be taken before any person authorized to administer oaths, at any place, upon any notice, and in any manner, and when so taken may be used like other depositions. By agreement of the parties, the testimony of any witness or witnesses of any party, may be submitted in the form of an affidavit by such witness or witnesses. The parties may stipulate what a particular witness would testify to if called, or the facts in the case of any party may be stipulated.

(c) Printed publications such as books, periodicals and similar publications such as are available to the general public in libraries or are of general circulation, and official records, may be introduced as provided in § 1.282 of this chapter. When a copy of an official record of the Patent Office is filed, it need not be a certified copy.

(d) Evidence not obtained and filed in compliance with these sections will not be considered.

(66 Stat. 795; 35 U. S. C. 23)

§ 2.124 *Testimony by written questions.* (a) A party may take the testimony of a witness by written questions to be propounded by an officer before whom depositions may be taken, § 1.274 of this chapter. The questions shall be served upon the other party within ten days after the opening date set for taking the testimony of the party submitting the questions, together with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within ten days thereafter a party so served may serve cross questions upon the party proposing to take the deposition. Within five days thereafter the latter may serve redirect questions upon a party who has served cross questions. Within three days after being served with redirect questions, a party may serve recross questions upon the party proposing to take the depositions. Written objections to questions may be served on the party propounding the questions, within the time allowed the objector for serving further questions, and in response thereto substitute questions may be served, within three days.

(b) A copy of the notice and copies of all questions served shall be delivered by the party taking the testimony to the officer designated in the notice, who shall proceed to take the testimony of the witness in response to the questions and to prepare, certify, and file the deposition, attaching thereto the copy of the notice and the questions received by him. Such depositions are subject to the same rules for filing and serving copies as other depositions.

(c) On motion made within ten days after service of the notice and written questions, it may be ordered, for good cause shown, that the testimony be not taken in accordance with this section but by oral examination of the witness.

§ 2.125 *Copies of testimony.* (a) One copy of the transcript of testimony (taken in accordance with §§ 1.275 to 1.278 of this chapter or § 2.124), together with copies of documentary exhibits, shall be served on each adverse party within thirty days after completion of the taking of such testimony. The original transcript and exhibits and one copy of the transcript, shall be filed in the Patent Office as promptly as possible.

(b) Each transcript and the copies thereof shall comply with § 1.253 of this chapter as to arrangement, indexing and form.

§ 2.126 *Allegations in application not evidence on behalf of applicant.* The allegation of dates of use in the application for registration of the applicant or registrant cannot be used as evidence in behalf of the party making the same nor are exhibits attached to pleadings, or specimens in application and registration files, considered as evidence of use on behalf of the party who filed them, unless identified and introduced in evidence as other exhibits.

§ 2.127 *Motions.* (a) Motions shall be made in writing and shall contain a full statement of the grounds therefor. Any brief or memorandum in support of

a motion shall accompany or be embodied in the motion. Briefs in opposition to a motion shall be filed within fifteen days from the date of service of the motion unless another time is specified by the Examiner or the time extended on request. Oral hearings will not be held on motion except on order of the Examiner having jurisdiction.

(b) Petitions for reconsideration or modification of the decision must be filed within ten days after the decision or, if the decision is appealable, before the time for appeal expires.

(c) Appeal must be taken, in the case of such decisions as are appealable, within the time limit set in the decision, or within twenty days if no time limit is set.

§ 2.128 *Final hearing and briefs.* (a) The brief of a party in the position of plaintiff shall be filed not later than forty days after the closing date set for rebuttal testimony; the brief of a party in the position of defendant not later than thirty days after the date of service of the first brief; a reply brief by a party in the position of plaintiff, if filed, shall be due ten days after the date of service of the brief to which it is a reply. Only a single copy of any brief need be filed.

(b) Briefs may be submitted in type-written or printed form, except that where they are in excess of thirty type-written pages, they shall be printed in conformity with § 1.253 (e) of this chapter. Typewritten briefs may be written on letter or legal size paper and shall be double-spaced. Each brief shall contain an alphabetical index of cases cited therein.

(c) If either party desires an oral hearing, he shall so state by a separate notice filed not later than his brief, and the time for such hearing will be set in a notice sent to each party by the Office. If no request for oral hearing is made, the case will be decided on the record and briefs.

§ 2.129 *Oral argument.* (a) Oral arguments will be heard by the Examiner of Interferences at the time stated in the notice. If any party appears at the specified time, he will be heard. If the Examiner of Interferences is prevented from hearing the case at the time specified for the hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless otherwise permitted, oral arguments will be limited to one-half hour for each party. Any petition for rehearing or modification of the decision must be filed within thirty days from the date thereof.

(b) Hearings may be advanced or adjourned, as far as is convenient and proper, to meet the wishes of the parties and their attorneys or agents.

§ 2.130 *New matter suggested by Examiner of Trademarks.* If, during the pendency of an inter partes case, facts appear which in the opinion of the Examiner of Trademarks render the mark of any applicant involved unregistrable, the attention of the Examiner of Interferences shall be called thereto. The Examiner of Interferences may suspend the proceeding and refer the case to the Examiner of Trademarks for his deter-

mination of the question of registrability, following the final determination of which the case shall be returned to the Examiner of Interferences for such further action as may be appropriate. The consideration of such facts by the Examiner of Trademarks shall be *ex parte*, but a copy of the action of the Examiner will be furnished to the other party or parties to the inter partes proceedings.

§ 2.131 *Ex parte action by the Examiner of Interferences.* If, in considering an inter partes case involving an application, facts appear which in the opinion of the Examiner of Interferences render the mark of the applicant involved unregistrable on grounds not placed in issue by the pleadings, or which have not been placed in evidence by the parties, he may:

(a) Incorporate in his decision on the case a recommendation to the Examiner of Trademarks that the application be re-examined in the light of such facts: The Examiner of Trademarks, should the application return to his jurisdiction for action, is authorized to re-examine the application accordingly, or

(b) Incorporate in his opinion in the case a decision refusing registration on the new reasons. Such action by the Examiner of Interferences is *ex parte*, and the opposing party is not entitled to be heard thereon. The applicant in such event may request reconsideration of the *ex parte* decision, which will then be reconsidered by the Examiner of Interferences, or he may appeal to the Commissioner within the time provided. If neither action is taken the decision refusing registration becomes the final decision on the application, without prejudice to the inter partes case.

§ 2.132 *Failure to take testimony.* (a) Upon the filing of a statement by any party in the position of a defendant, that the time for taking testimony on behalf of any party in the position of plaintiff has expired and that no testimony has been taken by him and no other evidence offered, an order may be entered that such party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause judgment may be rendered as by default.

(b) If no evidence other than Patent Office records is offered by the party in the position of plaintiff, any party in position of defendant, without waiving his right to offer evidence in the event the motion is denied, may move for dismissal on the ground that upon the law and the facts the party in the position of plaintiff has shown no right to relief. The party in the position of plaintiff shall be allowed fifteen days after service of the motion to file his argument in opposition to the motion. Judgment may be rendered against the party in position of plaintiff, or the Examiner of Interferences may decline to render judgment until all the evidence is in. In the latter event, testimony periods will be reset for the party in position of defendant and for rebuttal.

§ 2.133 *Amendment of application or registration during proceedings.* An application involved in a proceeding may

not be amended, nor may a registration be amended or disclaimed in part, except with the written consent of the other party or parties and the approval of the Examiner of Interferences, or except upon motion duly filed and considered.

§ 2.134 *Surrender or cancellation of registration.* If a registrant involved in a proceeding applies to surrender or cancel his registration, under section 7 (d) of the act, and such action is permitted, the proceeding may be terminated or continued on such terms as may be appropriate.

§ 2.135 *Abandonment of application, abandonment or disclaimer in whole of mark, concession of priority.* If an applicant involved in a proceeding files a written abandonment of the application, or abandonment of the mark, or if a registrant applies to disclaim the mark in whole under section 7 (d) of the act and such disclaimer is permitted, or if a party to an interference files a written concession of priority, the proceeding will not be dismissed or dissolved at the request of said party unless with the consent of the other parties, but judgment may be entered against said party when warranted by the issues raised.

§ 2.136 *Status of application on termination of proceeding.* On termination of a proceeding involving an application, the application, if the judgment is not adverse, returns to the status it had before the institution of the proceeding. If the judgment is adverse to the applicant, the application stands refused without further action and all proceedings thereon are considered terminated.

APPEALS

§ 2.141 *Ex parte appeals to the Commissioner from the Examiner of Trademarks.* Every applicant for the registration of a mark may, upon final refusal by the Examiner of Trademarks, appeal to the Commissioner in person upon payment of the prescribed fee. A second refusal on the same grounds may be considered as final by the applicant for purpose of appeal.

(Sec. 20, 60 Stat. 435; 15 U. S. C. 1070)

§ 2.142 *Time and manner of ex parte appeals.* (a) Such appeal must be taken within sixty days from the date of the final rejection, or, if the rejection was not made final by the examiner, within the time for response to the examiner's action. Appeal is taken simply by filing a notice of appeal and payment of the appeal fee.

(b) The appellant's brief shall be filed within sixty days after the date of appeal. If the brief is not filed within the time allowed, the appeal may be dismissed. The examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief, supplying a copy to the appellant. The appellant may file a reply brief within twenty days from the date of such answer. By delegation from the Secretary of Commerce, such appeals may be heard and decided by an assistant commissioner or an examiner-in-chief. Cases which have been heard and decided on appeal to

the Commissioner will not be reopened except by his order.

(c) The appellant shall indicate, not later than at the time of filing his brief, if he desires an oral hearing. If no request for oral hearing has been made, the appeal will be considered on brief. If the appellant has requested an oral hearing, a day of hearing will be set, and due notice thereof given. Hearings will be held as stated in the notice and oral argument will be limited to one-half hour unless otherwise permitted.

(Sec. 20, 60 Stat. 435; 15 U. S. C. 1070)

§ 2.143 *Appeal to the Commissioner from decision of Examiner of Interferences.* Any party to an interference, opposition, cancellation, or a concurrent use proceeding may appeal from the final decision of the Examiner of Interferences to the Commissioner within sixty days from the date of the decision. Appeal is taken simply by filing a notice of appeal and payment of the appeal fee. The appellant's brief shall be filed within sixty days after the date of appeal. If the brief is not filed within the time allowed, the appeal may be dismissed. The brief of the appellee shall be filed within thirty days after the serving of the appellant's brief. A reply brief, if filed, shall be due within twenty days after the serving of appellee's brief. Briefs and hearings on appeal shall be subject to §§ 2.128 and 2.129 insofar as applicable. The date for hearing will be fixed by the Commissioner in each case. By delegation from the Secretary of Commerce, such appeals may be heard and decided by an assistant commissioner or an examiner-in-chief.

(Sec. 20, 60 Stat. 435; 15 U. S. C. 1070)

§ 2.144 *Reconsideration of decision on appeal.* Any request or petition for rehearing or reconsideration, or modification of the decision, must be filed within thirty days from the date of the decision.

§ 2.145 *Appeal to court.* Any applicant for registration, any registrant who has filed an affidavit under section 8 of the act, or any party to an inter partes proceeding, who is dissatisfied with the decision of the Commissioner, may appeal to the United States Court of Customs and Patent Appeals or may proceed under 35 U. S. C. 145 or 146, as in the case of applicants for patents, under the same conditions, rules and procedure as are applicable in the case of patent appeals or proceedings. (See §§ 1.301 to 1.304 of this chapter and rules of the United States Court of Customs and Patent Appeals.)

(Sec. 21, 60 Stat. 435; 15 U. S. C. 1071)

PETITIONS AND ACTION BY THE COMMISSIONER

§ 2.146 *Petition to the Commissioner.* (a) Petition may be taken to the Commissioner (1) from any repeated action or requirement of the Examiner of Trademarks, not subject to appeal under § 2.141, in the *ex parte* prosecution of an application; (2) in cases in which the statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner other than by appeal; and (3) to invoke the

supervisory authority of the Commissioner in appropriate circumstances.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Any brief in support thereof should accompany or be embodied in the petition; in contested cases any brief in opposition shall be filed within fifteen days after service of the petition. Where facts are to be proved in ex parte cases (as in a petition to revive and abandoned application) the proof in the form of affidavits (and exhibits, if any) must accompany the petition.

(c) An oral hearing will not be held except when considered necessary by the Commissioner.

(d) The mere filing of a petition will not stay the period for replying to an Examiner's action, nor stay other proceedings.

(e) Authority to act on a petition may, when appropriate, be delegated by the Commissioner.

(f) No fee is required for a petition to the Commissioner.

§ 2.147 Cases not specifically defined. All cases not specifically defined and provided for by the rules in this part will be decided in accordance with the merits of each case under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

§ 2.148 Commissioner may suspend certain rules. In an extraordinary situation, when justice requires and no other party is injured thereby, any requirement of the rules in this part not being a requirement of the statute may be suspended or waived by the Commissioner.

CERTIFICATE

§ 2.151 Certificate. When the requirements of the law and of the rules have been complied with, and the Patent Office has adjudged a mark registrable, a certificate will be issued to the effect that the applicant has complied with the law and that he is entitled to registration of his mark on the Principal Register or on the Supplemental Register as the case may be. The certificate will state the date on which the application for registration was filed in the Patent Office, the act under which the mark is registered, the date of issue and the number of the certificate. Attached to the certificate and forming a part thereof will be a reproduction of the drawing of the mark and pertinent data from the application. A notice of the affidavit requirement of section 8 (a) of the act (§ 2.161) will be printed on the certificate.

PUBLICATION OF MARKS REGISTERED UNDER 1905 ACT

AUTHORITY NOTE: §§ 2.153 to 2.156 interpret or apply sec. 12, 60 Stat. 432; 15 U. S. C. 1062.

§ 2.153 Publication requirements. A registrant of a mark registered under the provisions of the acts of 1881 or 1905 may, at any time prior to the expiration of the period for which the registration was issued or renewed, upon the payment

of the prescribed fee, file an affidavit setting forth those goods stated in the registration on which said mark is in use in commerce, specifying the nature of such commerce, and stating that the registrant claims the benefits of the Trademark Act of 1946. An order for a title report for Office use (or an abstract of title) shall accompany the affidavit.

§ 2.154 Publication in Official Gazette. A notice of the claim of benefits under the act of 1946 and a reproduction of the mark will then be published in the Official Gazette as soon as practicable. The published mark will retain its original registration number.

§ 2.155 Notice of publication. A notice of such publication of the mark and of the requirement for the affidavit specified in section 8 (b) of the act (§ 2.161) will be sent to the registrant.

§ 2.156 Not subject to opposition; subject to cancellation. The published mark is not subject to opposition on such publication in the Official Gazette, but is subject to petitions to cancel as specified in § 2.111 and to cancellation for failure to file the affidavit specified in § 2.161.

REREGISTRATION OF MARKS REGISTERED UNDER PRIOR ACTS

§ 2.158 Reregistration of marks registered under acts of 1881, 1905, and 1920. Trademarks registered under the act of 1881, the act of 1905 or the act of 1920 may be reregistered under the act of 1946, either on the Principal Register, if eligible, or on the Supplemental Register, but a new complete application for registration must be filed complying with the rules relating thereto, and such application will be subject to examination and other proceedings in the same manner as other applications filed under the act of 1946. See § 2.26 for use of old drawing.

CANCELLATION FOR FAILURE TO FILE AFFIDAVIT DURING SIXTH YEAR

AUTHORITY NOTE: §§ 2.161 to 2.165 interpret or apply sec. 8, 60 Stat. 431; 15 U. S. C. 1058.

§ 2.161 Cancellation for failure to file affidavit during sixth year. Any registration under the provisions of the act of 1946 and any registration published under the provisions of section 12 (c) of the act (§ 2.153) shall be cancelled at the end of six years following the date of registration or the date of such publication, unless within one year next preceding the expiration of such six years the registrant shall file in the Patent Office an affidavit showing that said mark is still in use or showing that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

§ 2.162 Requirements for affidavit. (a) The affidavit required by § 2.161 must:

(1) Be executed by the registrant after expiration of the five-year period following the date of registration or publication under section 12 (c),

(2) Identify the certificate of registration by the certificate number and date of registration;

(3) Recite sufficient facts to show that the mark described in the registration is still in use, specifying the nature of such use, or recite sufficient facts to show that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

(4) Be accompanied by an order for a title report for Office use (or an abstract of title).

(b) A specimen or facsimile showing the mark as currently used should be submitted with and referred to in the affidavit.

§ 2.163 Acknowledgment of receipt of affidavit. The registrant will be notified by the Examiner of Trademarks of the receipt of the affidavit and, if satisfactory, of its acceptance.

§ 2.164 Reconsideration of affidavit. (a) If the affidavit is insufficient, the registrant will be notified of the reasons by the examiner. Reconsideration of such refusal may be requested within six months from the date of the mailing of the notice. The request for reconsideration must state the reasons therefor; a supplemental or substitute affidavit required by section 8 of the act cannot be considered unless it is received before the expiration of six years from the date of the registration, or from the date of publication under section 12 (c).

(b) If the registrant is dissatisfied with the action of the examiner holding the affidavit insufficient, he may petition to the Commissioner for review under § 2.146. If there is no petition to the Commissioner, the Commissioner in any event will notify the registrant of the insufficiency of the affidavit after the expiration of the sixth year. Such notice constitutes the final decision of the Patent Office. If there is a petition to the Commissioner the decision on that petition will constitute such final action. See § 2.145 for appeal to court.

§ 2.165 Time of cancellation. If no affidavit is filed, the registration will be cancelled forthwith by the Commissioner after the end of the sixth year, and a notice of the cancellation will be sent to the registrant. If the affidavit is filed but is refused, cancellation of the registration will be withheld pending further proceedings.

AFFIDAVIT UNDER SECTION 15

§ 2.167 Affidavit under section 15. The affidavit provided by section 15 of the act for acquiring incontestability for a mark registered on the Principal Register or a mark registered under the act of 1881 or 1905 and published under section 12 (c) of the act (§ 2.153) must:

(a) Be signed by the registrant;

(b) Identify the certificate of registration by the certificate number and date of registration;

(c) Recite the goods or services stated in the registration on or in connection with which the mark has been in continuous use in commerce for a period of five years subsequent to the date of registration or date of publication under section 12 (c) of the act, and is still in use in commerce, specifying the nature of such commerce;

(d) Specify that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register;

(e) Specify that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of;

(f) Be filed within one year after the expiration of any five-year period of continuous use following registration or publication under section 12 (c)

The registrant will be notified of the receipt of the affidavit.

(Sec. 15, 60 Stat. 433; 15 U. S. C. 1065)

§ 2.168 *Combined with other affidavits.* (a) The affidavit filed under section 15 of the act may also be used as the affidavit required by section 8, provided it also complies with the requirements and is filed within the time limit specified in §§ 2.161 and 2.162.

(b) In appropriate circumstances the affidavit filed under section 15 of the act may be combined with the affidavit required for renewal of a registration (see § 2.183)

CORRECTION, DISCLAIMER, SURRENDER, ETC.

§ 2.171 *New certificate on change of ownership.* In case of change of ownership of a registered mark, upon request of the assignee, a new certificate of registration may be issued in the name of the assignee for the unexpired part of the original period. The assignment must be recorded in the Patent Office, and the request for the new certificate must be signed by the assignee and accompanied by the required fee and by an order for title report for Office use (or abstract of title). The original certificate of registration, if available, must also be submitted.

(Sec. 7, 60 Stat. 430; 15 U. S. C. 1057)

§ 2.172 *Surrender for cancellation, disclaimer in whole.* Upon application by the registrant, the Commissioner may permit any registration to be surrendered for cancellation or any registered mark to be disclaimed in whole. Application for such action must be signed by the registrant and must be accompanied by the required fee, and by an order for a title report for Office use (or an abstract of title) and, if not lost or destroyed, by the original certificate of registration.

(Sec. 7, 60 Stat. 430; 15 U. S. C. 1057)

§ 2.173 *Amendment and disclaimer in part.* (a) Upon application by the registrant, the Commissioner may permit any registration to be amended or any registered mark to be disclaimed in part. Application for such action must specify the amendment or disclaimer and be signed by the registrant, and must be accompanied by the required fee and by an order for a title report for Office use (or an abstract of title). If the amendment involves a change in the mark, new specimens showing the mark as used in connection with the goods or services, and a new drawing of the amended mark must be submitted. The certificate of registration or, if said certificate is lost or destroyed, a certified

copy thereof, must also be submitted in order that the Commissioner may make appropriate entry thereon and in the records of the Office. The registration when so amended must still contain registrable matter and the mark as amended must be registrable as a whole, and such amendment or disclaimer must not involve such changes in the registration as to alter materially the character of the mark.

(b) Changes in the specification of goods other than in the nature of deletions will not be permitted except under the provisions of § 2.175. No amendment seeking the elimination of a disclaimer will be permitted.

(c) A printed copy of the amendment or disclaimer shall be attached to each printed copy of the registration.

(Sec. 7, 60 Stat. 430; 15 U. S. C. 1057)

§ 2.174 *Correction of Office mistake.* Whenever a material mistake in a registration, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, a certificate stating the fact and nature of such mistake, signed by the Commissioner and sealed with the seal of the Patent Office, shall be issued without charge and recorded, and a printed copy thereof shall be attached to each printed copy of the registration certificate. Such corrected certificate shall thereafter have the same effect as if the same had been originally issued in such corrected form, or in the discretion of the Commissioner a new certificate of registration may be issued without charge. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must be submitted in order that the Commissioner may make appropriate entry thereon.

(Sec. 7, 60 Stat. 430, as amended; 15 U. S. C. 1057)

§ 2.175 *Correction of mistake by registrant.* (a) Whenever a mistake has been made in a registration and a showing has been made that such mistake occurred in good faith through the fault of the applicant, the Commissioner may issue a certificate of correction, or in his discretion, a new certificate upon the payment of the required fee, provided that the correction does not involve such changes in the registration as to require republication of the mark.

(b) Application for such action must specify the mistake for which correction is sought and the manner in which it arose, show that it occurred in good faith, be signed by the applicant, and be accompanied by the required fee and by an order for a title report for Office use (or an abstract of title). The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must also be submitted in order that the Commissioner may make appropriate entry thereon.

(c) A printed copy of the certificate of correction shall be attached to each printed copy of the registration.

(Sec. 7, 60 Stat. 430, as amended; 15 U. S. C. 1057)

§ 2.176 *Consideration of above matters.* The matters in §§ 2.171 to 2.175 will be considered in the first instance by

the Examiner of Trademarks. If the action of the Examiner of Trademarks is adverse, petition may be taken to the Commissioner under § 2.146. If response to an adverse action of the examiner is not made by the registrant within six months, the matter will be considered abandoned.

TERM AND RENEWAL

AUTHORITY NOTE: §§ 2.181 to 2.184 interpret or apply sec. 9, 60 Stat. 431; 15 U. S. C. 1060.

§ 2.181 *Term of original registrations and renewals.* (a) Registrations issued under the act of 1946, whether on the Principal Register or on the Supplemental Register, remain in force for twenty years, and may be renewed for periods of twenty years from the expiring period unless previously cancelled, disclaimed in whole, or surrendered.

(b) Registrations issued under the acts of 1905 and 1881 remain in force for their unexpired terms and may be renewed in the same manner as registrations under the act of 1946.

(c) Registrations issued under the act of 1920 cannot be renewed unless renewal is required to support foreign registrations and in such case may be renewed on the Supplemental Register in the same manner as registrations under the act of 1946.

§ 2.182 *Period within which application for renewal must be filed.* An application for renewal may be filed by the registrant at any time within six months before the expiration of the period for which the certificate of registration was issued or renewed, or it may be filed within three months after such expiration on payment of the additional fee required.

§ 2.183 *Requirements of application for renewal.* (a) The application for renewal must be accompanied by:

(1) An affidavit by the registrant stating that the mark is still in use in commerce, specifying the nature of such commerce. This affidavit must be executed not more than six months before the expiration of the registration.

(2) The required fee, including the additional fee required in the case of a delayed application for renewal.

(b) The affidavit and the fee must accompany the application for renewal and therefore must be filed within the period provided for applying for renewal. If defective or insufficient, they cannot be completed after the period for applying for renewal has passed; if completed after the initial six months period has expired but before the expiration of the three months delay period, the application can be considered only as a delayed application for renewal.

(c) The application for renewal must also include:

(1) An order for a title report for Office use (or an abstract of title)

(2) If the applicant is not domiciled in the United States, the designation of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark.

(3) If the mark is registered under the act of 1920, a verified showing that

renewal is required to support foreign registrations.

§ 2.184 *Refusal of renewal.* (a) If the application for renewal is incomplete or defective, the renewal will be refused by the Examiner of Trademarks. The application may be completed or amended in response to a refusal, subject to the provisions of §§ 2.62 and 2.183.

(b) If the registrant is dissatisfied with the action of the examiner considering the application for renewal incomplete or defective, he may petition to the Commissioner for review under § 2.146. If response to an adverse action of the examiner is not made within six months, the application for renewal will be considered abandoned.

ASSIGNMENT OF MARKS

§ 2.185 *Requirements for assignments.* (a) Assignments under section 10 of the act of registered marks, or marks for which an application for registration has been filed, will be recorded in the Patent Office. Other instruments which may relate to such marks may be recorded in the discretion of the Commissioner. No assignment will be recorded, except as may be ordered by the Commissioner, unless it has been executed and unless:

(1) The certificate of registration is identified in the assignment by the certificate number (the date of registration should also be given) or, the application for registration shall have been first filed in the Patent Office and the application is identified in the assignment by serial number (the date of filing should also be given)

(2) It is in the English language or, if not in the English language, accompanied by a sworn translation;

(3) The fee for recording is received; and

(4) An appointment of a resident agent is made in case the assignee is not domiciled in the United States. The appointment must be separate from the assignment and there must be a separate appointment for each registration or application assigned in one instrument.

(b) The address of the assignee should be recited in the assignment, otherwise it must be given in a separate paper.

(c) The date of record of the assignment is the date of the receipt of the assignment at the Patent Office in proper form and accompanied by the full fee for recording.

(Sec. 10, 60 Stat. 431; 15 U. S. C. 1060)

§ 2.186 *Action may be taken by assignee of record.* Any action which may or must be taken by a registrant or applicant may be taken by the assignee, provided the assignment has been recorded.

§ 2.187 *Certificate of registration may issue to assignee.* The certificate of registration may be issued to the assignee of the applicant if the assignment is recorded in the Patent Office at least ten days before the application is allowed, and the address of the assignee appears in the record. See § 2.82.

AMENDMENT OF RULES

§ 2.189 *Amendments to rules.* (a) All amendments to this part will be published in the Official Gazette and in the FEDERAL REGISTER.

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(b) Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the FEDERAL REGISTER and in the Official Gazette. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof. Oral hearings may be held at the discretion of the Commissioner.

D. Part 4, Forms for Trademark Cases, replacing Part 110, is established as follows:

PART 4—FORMS FOR TRADEMARK CASES

- Sec.
- 4.1 Trademark application by an individual; Principal Register.
 - 4.2 Power of attorney accompanying application.
 - 4.3 Authorization of agent accompanying application.
 - 4.4 Appointment of domestic representative accompanying application.
 - 4.5 Trademark application by a firm; Principal Register.
 - 4.6 Trademark application by a corporation; Principal Register.
 - 4.7 Service mark application; Principal Register.
 - 4.8 Collective mark application; Principal Register.
 - 4.9 Certification mark application; Principal Register.
 - 4.10 Application based on concurrent use; Principal Register.
 - 4.11 Application to register on Supplemental Register.
 - 4.12 Application based on foreign application or registration.
 - 4.13 Application for renewal.
 - 4.14 Affidavit for publication under section 12 (c).
 - 4.15 Affidavit required by section 8.
 - 4.16 Affidavit under section 15 (a).
 - 4.17 Notice of opposition.
 - 4.18 Petition to cancel a registration.
 - 4.19 Ex parte appeal from Examiner of Trademarks.
 - 4.20 Inter partes appeal to the Commissioner.
 - 4.21 Assignment of application.
 - 4.22 Assignment of registration.

AUTHORITY: §§ 4.1 to 4.23 issued under sec. 41, 60 Stat. 440; 15 U. S. C. 1123. Interpret or apply sec. 1, 60 Stat. 427; 15 U. S. C. 1031.

NOTE: The following forms illustrate the manner of preparing applications for registration of marks and various papers in trademark cases, to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. These forms should be used in cases to which they are applicable. A sufficient number of representative forms are given which, with the variations indicated by the notes, should take care of all the usual situations. In special situations such alterations as the circumstances may render necessary may be made provided they do not depart from the requirements of Part 100 of this chapter or the statute. Before using any forms the pertinent rules and sections of the statute should be studied carefully.

§ 4.1 *Trademark application by an individual; Principal Register.*

Mark -----
(Identify the mark)
Class No. -----
(If known)

To the COMMISSIONER OF PATENTS:

(Name of applicant and trade style, if any)

(Business address, including street, city and State)

(Residence address, including street, city and State)

(Citizenship of applicant)

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing (1) for -----

(Common, usual or ordinary name of goods) and requests that said mark be registered in the United States Patent Office on the Principal Register established by the act of July 5, 1940.

The trademark was first used on the goods (2) on -----, was first used in (Date)

----- commerce (3) on (Type of commerce)

-----, and is now in use in such (Date) commerce (4).

The mark is used by applying it to -----, (5) and five specimens showing the mark as actually used are presented herewith.

State of ----- } ss.
County of ----- }

-----, being sworn,
(Name of applicant)

states that: he believes himself to be the owner of the trademark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as might be calculated to deceive; and the facts set forth in this application are true.

(Signature of applicant)

Subscribed and sworn to before me this ----- day of -----, 19-----

(Notary Public) (6)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3) (7)

NOTES: (1) If registration is sought for a word or numeral mark not depicted in any special form, the drawing may be the mark typed in capital letters on letter-size bond paper; otherwise, the drawing shall comply with § 2.52.

(2) If more than one item of goods is set forth and the dates given apply to only one of the items listed, insert the name of the item to which the dates apply.

(3) Type of commerce should be specified as "interstate," "territorial," "foreign," or such other specified type of commerce as may be lawfully regulated by Congress. Foreign applicants relying upon use must specify "commerce with the United States."

(4) If the mark is other than a coined, arbitrary or fanciful mark which is claimed to have acquired a secondary meaning, insert whichever of the following paragraphs is applicable:

(a) The mark has become distinctive of applicant's goods as a result of substantially exclusive and continuous use in ----- commerce for the five (Type of commerce) years next preceding the date of filing of this application.

(b) The mark has become distinctive of applicant's goods as evidenced by the showing submitted separately.

(5) Insert the manner or method of using the mark with the goods, i. e., "the goods,"

"the containers for the goods," "displays associated with the goods," "tags or labels affixed to the goods," or such other appropriate method as may be used.

(6) The notary's seal or stamp or other evidence of authority in the jurisdiction of execution must be affixed.

(7) If the applicant is not domiciled in the United States, a domestic representative must be appointed. See § 4.4.

§ 4.2 Power of attorney accompanying application.

Applicant hereby appoints _____ (8)
_____ member of the bar of the
(Address)

State of _____ to prosecute this application to register, to transact all business in the Patent Office in connection therewith, and to receive the certificate of registration.

NOTE: (8) If the name of the law firm is used, the names of the members of the firm and their States of admission to the bar shall be set forth.

§ 4.3 Authorization of agent accompanying application.

Applicant hereby appoints _____ (9)
with offices at _____

(Street, city, and State)
Patent Office Registration No. _____ to prosecute this application to register, to transact all business in connection therewith, and to receive the certificate of registration.

NOTE: (9) Authorization of an agent must be an individual authorization, and names of firms of agents will not be recognized.

§ 4.4 Appointment of domestic representative (10) accompanying application.

_____, whose postal
(Name of representative)
address is _____, is
(Street, city and State)
hereby designated applicant's representative upon whom notices or process in proceedings affecting the mark may be served.

NOTE: (10) The appointment of a domestic representative must be separate from a Power of Attorney or Authorization of Agent.

§ 4.5 Trademark application by a firm, Principal Register

Mark _____
(Identify the mark)
Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Firm name and names of members comprising firm)

(Business address, including street, city and State)

(Domicile of firm)

(Citizenship of members of firm)

(Body of application form is same as Form 1)

State of _____ } ss.
County of _____ }

_____, being
(Name of member of firm)

sworn, states that he is a member of the applicant firm; he believes said firm to be the owner of the mark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as might be

calculated to deceive; and the facts set forth in this application are true.

(Signature of member of firm)

Subscribed and sworn to before me this
day of _____, 19--

(Notary Public) (6)

POWER OF ATTORNEY OR AUTHORIZATION OF
AGENT

(See §§ 4.2 and 4.3)

§ 4.6 Trademark application by a corporation, Principal Register

Mark _____

(Identify the mark)

Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Corporate name and State or country of incorporation) (11)

(Business address, including street, city and State)

(Situs of corporation, including street, city and State)

(Body of application form is same as Form 1)

State of _____ } ss.
County of _____ }

_____, being sworn,
(Name of corporate officer)
states that: he is _____

(Official title)
of applicant corporation and is authorized to execute this affidavit on behalf of said corporation; he believes said corporation to be the owner of the mark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as might be calculated to deceive; and the facts set forth in this application are true.

(Corporate name)

By _____
(Signature and official title)

Subscribed and sworn to before me this
day of _____, 19--

(Notary Public) (6)

POWER OF ATTORNEY OR AUTHORIZATION OF
AGENT

(See §§ 4.2 and 4.3)

NOTE: (11) If applicant is an association or other collective group, the word "association" or other appropriate designation should be substituted for "corporation."

§ 4.7 Service mark application, Principal Register

Mark _____

(Identify the mark)

Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of applicant in accordance with § 4.1, 4.5 or 4.6)

The above identified applicant has adopted and is using the service mark shown in the accompanying drawing (12) for

(Common, usual or ordinary name of service)

and requests that said mark be registered in the United States Patent Office on the Principal Register established by the Act of July 5, 1946.

The service mark was first used in connection with the services on _____,

(Date)

was first used in the sale or advertising of
(3) services rendered in _____

(Type of commerce)

commerce on _____, and is

(Date)

now in use in such commerce.

The mark is used by _____

(State method of using the mark in connection with the services)

and five _____ (13) showing the mark as actually used are presented herewith.

State of _____ } ss.
County of _____ }

(Insert appropriate verification from § 4.1, 4.5 or 4.6, changing the word "goods" to "services.")

POWER OF ATTORNEY OR AUTHORIZATION OF
AGENT

(See §§ 4.2 and 4.3)

NOTES: (12) See Note (1), and if drawing is not practicable, insert description of the mark instead of reference to the drawing.

(13) Insert "specimens" or "facsimiles," or state the nature of the representation of the mark which is furnished.

§ 4.8 Collective mark application; Principal Register

Mark _____

(Identify the mark)

Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Insert identification of applicant in accordance with § 4.6, changing "corporation" to "association," "cooperative," or other appropriate designation of the collective group or organization.)

The above identified applicant has adopted and is exercising legitimate control over the use of the collective mark shown in the accompanying drawing (1) for _____

(Common, usual or ordinary name of goods or services)

to indicate _____

(14) and requests that said mark be registered in the United States Patent Office on the Principal Register established by the act of July 5, 1946.

The collective mark was first used on the

(Insert "goods" or "services")

by members of applicant on _____,

(Date)

was first used by said members in
(Type of commerce)

on _____, and is now in use in such

(Date)

commerce.

The mark is used by applying it to _____
(5) and five specimens (13) of the mark as actually used are presented herewith.

State of _____ } ss.
County of _____ }

(Insert verification of § 4.6, changing "corporation" to "association," "cooperative," or other appropriate identification of the collective group or organization.)

POWER OF ATTORNEY OR AUTHORIZATION OF
AGENT

(See §§ 4.2 and 4.3)

NOTE: (14) Insert "the goods of the members of applicant," "the services rendered by the members of applicant," "membership in applicant," or other appropriate statement,

§ 4.9 Certification mark application; Principal Register

Mark _____
(Identify the mark)
Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of applicant in accordance with § 4.1, 4.5 or 4.6.)

The above identified applicant has adopted and is exercising legitimate control over the use of the certification mark shown in the accompanying drawing (12) for _____ and requests

(Insert "goods" or "services") that said mark be registered in the United States Patent Office on the Principal Register established by the act of July 5, 1946.

The certification mark is used by persons authorized by applicant to certify _____, (15) said mark was first used under the authority of applicant on _____, was first used

(Date)

in _____ commerce on _____, (Type of commerce) (Date) and is now in use in such commerce.

The mark is used by applying it to _____, (5) and five specimens showing the mark as actually used are presented herewith.

Applicant is not engaged in the production or marketing of any goods or services to which the mark is applied.

State of _____ } ss.
County of _____ }

(Insert appropriate verification from § 4.1, 4.5 or 4.6, and add after the word "association" the words "other than those authorized by applicant.")

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3)

NOTE: (15) Insert the appropriate statement that the mark certifies regional or other origin; material; mode of manufacture; quality; accuracy or other characteristic of the goods; or that the work or labor on the goods or in the performance of the services was performed by members of applicant.

§ 4.10 Application based on concurrent use; Principal Register

Mark _____
(Identify the mark)
Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of applicant in accordance with § 4.1, 4.5 or 4.6.)

Use § 4.1, and add at the end of the first paragraph: "for the area comprising _____."

(List States for which registration is sought) and add as final paragraph of application

"The following exception(s) to applicant's right to exclusive use are:

By _____, doing business at _____, who is using the mark

(Identify mark and Reg. No. or Ser. No., if any)

for _____ (Common, usual, or ordinary name of goods or services)

in the States of _____ by applying the mark to _____ (5)

from _____ (Earliest date of such use) to the present."

(Insert appropriate verification in § 4.1, 4.5 or 4.6 and add after the word "associa-

tion" the words "other than (are) (is) specified in the application".)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3)

§ 4.11 Application to register on Supplemental Register

Mark _____
(Identify the mark)
Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of applicant in accordance with § 4.1, 4.5 or 4.6.)

For application for trademark registration (16), use § 4.1, 4.5 or 4.6, whichever is appropriate, changing the word "Principal" to "Supplemental" and adding a final paragraph in the application as follows:

"The mark sought to be registered has been in lawful use in _____ commerce in connection with the goods for the year preceding the date of filing of this application." (17)

(Type of commerce)

State of _____ } ss.
County of _____ }

(Insert appropriate verification from § 4.1, 4.5 or 4.6.)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3)

NOTES: (16) Service mark, collective mark and certification mark applications on the Supplemental Register should conform to § 4.7, 4.8 or 4.9, whichever is applicable, with the change and addition indicated herein.

(17) If the mark has not been in use for the year next preceding the filing date, but use in foreign commerce has been commenced and registration in the United States is required as a basis for obtaining foreign protection of the mark, the following statement should be substituted for the last phrase:

"and applicant has begun the use of such mark in commerce between the United States and _____" (Name of foreign country)

In this instance, applicant may be required to make a showing that U. S. registration is required as a basis of foreign protection of the mark.

§ 4.12 Application based on foreign application or registration.

Mark _____
(Identify the mark)
Class No. _____
(If known)

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of applicant in accordance with § 4.1, 4.5 or 4.6.)

The above identified applicant has registered (1) the trademark shown in the accompanying drawing (2) in _____ for

(Name of country of origin)

(Common, usual, or ordinary name of goods) (3) and requests that said mark be registered in the United States Patent Office on the _____ Register ("Principal" or "Supplemental") established by the act of July 5, 1946.

The trademark was registered in _____ (Country) _____, Registration No. _____ on the _____ day of _____, 19____, and said registration is now in full force and effect.

Certificate of such registration is presented herewith. (4) (5)

DESIGNATION OF DOMESTIC REPRESENTATIVE (§ 4.4)

POWER OF ATTORNEY OR AUTHORITY OF AGENT (§§ 4.2 and 4.3)

CONSULAR CERTIFICATE

NOTES: (1) If the right of priority is claimed, in accordance with the International Convention and section 44 (d) of the Act, the first sentence of the application should, instead of referring to the mark having been registered in the country of origin, state: "filed application for registration of the trademark shown in the accompanying drawing" and the first sentence of the final paragraph should be changed to state: "The application to register in _____ was filed on the _____

(Country of origin)

day of _____, 19____.

(2) See Note 1, § 4.1.

(3) The identification of goods may not be broader than that listed in the foreign registration.

(4) If the registration in the country of origin has not issued at the time the United States application is filed, this sentence should read: "Certificate of such registration will be presented upon issue." (Registration in the United States will not issue until such certificate is presented.)

(5) No verification of the application is required when the certificate of registration accompanies the application. If certificate is not attached use § 4.2 or § 4.3.

§ 4.13 Application for renewal.

Mark _____
(Identify the mark)
Reg. No. _____
Class No. _____

To the COMMISSIONER OF PATENTS:

(Insert appropriate identification of registrant in accordance with § 4.1, 4.5 or 4.6.)

The above identified registrant requests that Registration No. _____ granted to _____ (Name

_____ on _____ of original Registrant) (Date of issuance) which he now owns as evidenced by the accompanying title report (1) be renewed in accordance with the provisions of Section 9 of the Act of July 5, 1946.

The renewal fee is presented herewith. (2)

State of _____ } ss.
County of _____ }

(Name of registrant or person authorized to sign for it)

being sworn, states that _____

(Insert "he" or name of registrant) owns Registration No. _____ that the mark shown therein is in use (2) in _____ (3) commerce.

(Type of commerce)

(Signature, and if a corporation or other organization, the official title)

Subscribed and sworn to before me this _____ day of _____, 19____.

(Notary Public) (6)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3) (4)

NOTES: (1) An order for title report, and the fee of \$1.00 therefor must accompany the application for renewal, and if record title is not in the applicant for renewal, satisfactory showing of ownership must accompany the application.

(2) The fee for renewal sought prior to expiration is \$25.00; and for delayed renewal filed within three months after expiration, an additional \$5.00.

(3) Type of commerce should be specified as "interstate," "foreign," "territorial," or such other specified type of commerce as may be regulated by Congress. Foreign registrants must specify "commerce with the United States."

(4) If applicant for renewal is not domiciled in the United States, a domestic representative must be designated. See § 4.4.

§ 4.14 Affidavit for publication under section 12 (c)

Mark -----
(Identify the mark)
Reg. No. -----
Date of issue -----
To: -----
(Name of original registrant)

State of ----- } ss.
County of ----- }

(Name of registrant or person authorized to sign for it)

being sworn, states that -----
(Insert "he" or
owns Registration
name of registrant)

No. -----, as evidenced by the accompanying title report; (1) that said registration is now in force; that the mark shown therein is in use in ----- (2) commerce
(Type of commerce)

on each of the following goods recited in the registration -----, and that the benefits of the Act of July 5, 1946 are hereby claimed for said registration.

(Signature, and if a corporation or other organization, the official title)

(JURAT) (3)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3)

NOTES: (1) An order for title report and the fee of \$1.00 therefor must accompany the affidavit, and if record title is not in the person filing the affidavit, satisfactory showing of ownership must be made.

(2) Type of commerce should be specified as "interstate," "territorial," "foreign," or such other specified type of commerce as may be lawfully regulated by Congress. Foreign registrants must specify "commerce with the United States."

(3) Use jurat from § 4.1.

§ 4.15 Affidavit required by section 8.

Mark -----
(Identify the mark)
Reg. No. -----
Class No. -----

State of ----- } ss.
County of ----- }

(Name of registrant or person authorized to sign for it)

(Insert "he" or name of registrant)
owns Registration No. ----- issued -----
(Date)

(1) as evidenced by the accompanying title report; (2) and that the mark shown therein is still in use (3) as evidenced by -----
(4)

(Signature, and if a corporation or other organization, the official title)

(JURAT) (5)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3)

NOTES: (1) If the registration issued under a prior act and has been published under section 12 (c), add: "and published under section 12 (c) on -----"

(Date)

(2) An order for title report and the fee of \$1.00 therefor must accompany the affidavit, and if record title is not in the person filing the affidavit, satisfactory showing of ownership must be made.

(3) If the mark is not in use at the time of filing the affidavit, but there is no intention to abandon the mark, sufficient facts must be recited to show that the nonuse is due to special circumstances which excuse the nonuse.

(4) Insert "the attached specimen showing the mark as currently used" or recite sufficient facts as to sales or advertising, or both, as to show that the mark is in current use.

(5) Use jurat from § 4.1.

§ 4.16 Affidavit under section 15. (a)

Mark -----
(Identify the mark)
Reg. No. -----
Class No. -----

State of ----- } ss.
County of ----- }

(Name of registrant or person authorized to sign for it)

being sworn, states that -----
(Insert "he" or name of registrant)

owns Registration No. ----- issued -----
(Date)

(1) as evidenced by the accompanying title report (2); that the mark shown therein has been in continuous use in -----
(Type of commerce)

(3) commerce for five consecutive years from ----- (4) to the present on each
(Date)

of the following goods recited in the registration: -----, that said mark is still in use in ----- com-
(Type of commerce)

merce; that there has been no final decision adverse to registrant's claim of ownership of said mark to (his) (its) right to register the same or maintain it on the register, and that there is no proceeding involving any of said rights pending and not disposed of either in the Patent Office or in the courts.

(Signature, and if a corporation or other organization, the official title)

(JURAT) (5)

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

(See §§ 4.2 and 4.3)

NOTES: (a) This form may be used as a combined affidavit under Sections 8 and 15, provided it contains sufficient facts as to sales or advertising, or both, as to show that the mark is in current use or is accompanied by a verified specimen showing current use of the mark.

(1) If the registration issued under a prior Act and has been published under Section 12 (c), add: "and published under Section 12 (c) on -----"

(Date)

(2) An order for title report and the fee of \$1.00 therefor must accompany the affidavit, and if record title is not in the person filing the affidavit, satisfactory showing of ownership must be made.

(3) Type of commerce must be specified as "interstate," "territorial," "foreign," or such other commerce as may be regulated by

Congress. Foreign registrants must specify "commerce with the United States."

(4) The beginning of the five year period immediately preceding the filing of the affidavit, provided such date is subsequent to the registration under the Act of 1946 or publication under Section 12 (c), as the case may be.

(5) Use jurat from § 4.1.

§ 4.17 Notice of opposition in the United States Patent Office.

In the matter of application Serial No. -----

Published in the Official Gazette on -----

(Date)

(Name of opposer)

v.

(Name of applicant)

Opposition No. -----
(To be inserted by Patent Office)

-----, a(n) -----
(Name of opposer)

(1) located and doing business of opposer) -----
at -----

(Street, city, and State)

believes that it will be damaged by registration of the mark shown in Serial No. -----, and hereby opposes the same.

As grounds of opposition, it is alleged that:

(Numbered paragraphs should state the grounds and recite facts tending to show why opposer believes it will be damaged.)

(Name of corporation or other organization, if any)

By -----
(Signature, and official title, if any)

State of ----- } ss.
County of ----- }

(Name of opposer or person authorized to sign for it)

being sworn, states that he is the (person named in the foregoing notice of opposition)

----- of -----
(Official title) (Name of firm, corporation or other organization)

that he has read and signed the notice and knows the contents thereof; and that the allegations are true, except as to the matters stated therein to be upon information and belief, and as to those matters he believes them to be true.

(Signature)

Subscribed and sworn to before me this ----- day of -----, 19--

(Notary Public) (6)

POWER OF ATTORNEY

NOTE: (1) If an individual, state: "an individual trading as -----" If a firm, state: "a firm composed of -----" If a corporation, association or other organization, state "a corporation (or other organization) organized and existing under the laws of -----"

§ 4.18 Petition to cancel a registration in the United States Patent Office.

In the matter of Registration No. -----
Date of Issue -----

(Name of petitioner)

v.

(Name of registrant)

Cancellation No. _____
(To be inserted by
Patent Office)

(Name of petitioner)

a(n) _____
(Identity of petitioner)
(1) located and doing business at _____
(Street, city, and State)

believes that it is or will be damaged by
Registration No. _____ and hereby petitions
to cancel the same.

As grounds therefor, it is alleged that:

(Numbered paragraphs should state the
grounds and recite facts tending to show
why petitioner believes that it is or will be
damaged.)

(Name of corporation or
other organization, if
any)

By _____
(Signature, and official
title, if any)

(Insert affidavit in accordance with § 4.17)

POWER OF ATTORNEY

NOTE: (1) See note (1) in § 4.17.

§ 4.19 *Ex parte* appeal from exam-
iner of trademarks in the United States
Patent Office.

(Name of applicant)

(Serial number of appli-
cation)

To the COMMISSIONER OF PATENTS:

Applicant hereby appeals to the Commis-
sioner from the decision of the Examiner of
Trademarks refusing registration.

(Signature)

§ 4.20 *Inter partes* appeal to the
Commissioner

(Party in position of
plaintiff)

v.

(Party in position of
defendant)

No. _____
(Type of proceeding)

_____ hereby appeals
to the Commissioner from the decision of the
Examiner of Interferences.

(Signature)

§ 4.21 *Assignment of application.*

State of _____ } ss
County of _____ }

Whereas _____ of
(Name of assignor)

(Street, city, and State)
has adopted and is using a mark for which
he has filed application in the United States
Patent Office for registration, Serial No. _____,
and

Whereas _____, of
(Name of assignee)

(Street, city, and State)
is desirous of acquiring said mark;
Now, therefore, for good and valuable
consideration, receipt of which is hereby
acknowledged, said

(Name of assignor)
does hereby assign unto the said _____

(Name of
assignee)
all rights, title and interest in and

to the said mark, together with the good
will of the business symbolized by the mark,
and the application for registration thereof.
The Commissioner of Patents is requested
to issue the certificate of registration to
said assignee. (1)

(Name of assignor)
By _____
(Official title)

Subscribed and sworn to before me this
_____ day of _____, 19____

(Notary Public) (6)

NOTE: (1) If the postal address of the as-
signee is not given either in the instrument
or in the accompanying paper, the registra-
tion will not issue to the assignee.

§ 4.22 *Assignment of registration.*

State of _____ } ss
County of _____ }

Whereas _____ of
(Name of assignor)

(Street, city, and State)
has adopted, used and is using a mark which
is registered in the United States Patent
Office, Registration No. _____, dated _____,
and

Whereas _____ of
(Name of assignee)

(Street, city, and State)
is desirous of acquiring said mark and the
registration thereof;

Now, therefore, for good and valuable
consideration, receipt of which is hereby
acknowledged, said _____

(Name of assignor)
does hereby assign unto the said _____

(Name of
assignee)
all rights title and interest in and

to the said mark, together with the good
will of the business symbolized by the mark,
and the registration thereof, No. _____

(Name of assignor)
By _____
(Official title)

Subscribed and sworn to before me this
_____ day of _____, 19____

(Notary Public) (6)

NOTE: If the postal address of the as-
signee is not given either in the instrument
or in an accompanying paper, recording may
be delayed by the Patent Office pending re-
ceipt of such address.

E. Part 6, Classification of Goods and
Services under the Trademark Act, is
established as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

Sec.

6.1 Schedule of classes of goods and services.

6.2 Schedule for certification marks.

AUTHORITY: §§ 6.1 and 6.2 issued under
sec. 41, 60 Stat. 440; 15 U. S. C. 1123. Inter-
pret or apply sec. 30, 60 Stat. 436; 15 U. S. C.
1112.

§ 6.1 *Schedule of classes of goods and
services.*

Class	Title
1	Raw or partly prepared materials.
2	Receptacles.
3	Baggage, animal equipments, port- folios, and pocket books.
4	Abrasives and polishing materials.

Goods—Continued

Class	Title
5	Adhesives.
6	Chemicals and chemical compositions.
7	Cordage.
8	Smokers' articles, not including tobacco products.
9	Explosives, firearms, equipments, and projectiles.
10	Fertilizers.
11	Inks and inkling materials.
12	Construction materials.
13	Hardware and plumbing and steam- fitting supplies.
14	Metals and metal castings and forgings.
15	Oils and greases.
16	Protective and decorative coatings.
17	Tobacco products.
18	Medicines and pharmaceutical prepa- rations.
19	Vehicles.
20	Linoleum and oiled cloth.
21	Electrical apparatus, machines, and supplies.
22	Games, toys, and sporting goods.
23	Cutlery, machinery, and tools, and parts thereof.
24	Laundry appliances and machines.
25	Locks and safes.
26	Measuring and scientific appliances.
27	Horological instruments.
28	Jewelry and precious-metal ware.
29	Brooms, brushes, and dusters.
30	Crockery, earthenware, and porcelain.
31	Filters and refrigerators.
32	Furniture and upholstery.
33	Glassware.
34	Heating, lighting, and ventilating appa- ratus.
35	Beltting, hose, machinery packing, and nonmetallic tires.
36	Musical instruments and supplies.
37	Paper and stationery.
38	Prints and publications.
39	Clothing.
40	Fancy goods, furnishings, and notions.
41	Canes, parasols, and umbrellas.
42	Knitted, netted, and textile fabrics, and substitutes therefor.
43	Thread and yarn.
44	Dental, medical, and surgical appli- ances.
45	Soft drinks and carbonated waters.
46	Foods and ingredients of foods.
47	Wines.
48	Malt beverages and liquors.
49	Distilled alcoholic liquors.
50	Merchandise not otherwise classified.
51	Cosmetics and toilet preparations.
52	Detergents and soaps.

SERVICES

Class	Title
100	Miscellaneous.
101	Advertising and business.
102	Insurance and financial.
103	Construction and repair.
104	Communication.
105	Transportation and storage.
106	Material treatment.
107	Education and entertainment.

§ 6.2 *Schedule for certification marks.*
In the case of certification marks, all
goods and services are classified in two
classes as follows:

A. Goods.
B. Services.

ROBERT C. WATSON,
Commissioner of Patents.

Approved:

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 55-5418; Filed, July 6, 1955;
8:45 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934

SEMI-ANNUAL REPORTS

On January 27, 1955, the Commission published a proposal to adopt §§ 240.13a-13 and 240.15d-13 (Rules X-13A-13 and X-15D-13) to provide for semi-annual reports to the Commission under the Securities Exchange Act of 1934. The Commission, after considering the comments and suggestions received in regard to the proposal, including the views expressed at a public hearing on the proposal held on March 9, 1955, has adopted the sections in the form set forth below.

This action is taken pursuant to the Securities Exchange Act of 1934, particularly sections 3 (b) 13, 15 (d) and 23 (a) thereof, the Commission deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the act.

The text of §§ 240.13a-13 and 240.15d-13 as herein adopted are as follows:

§ 240.13a-13 *Semi-annual reports on Form 9-K.* (a) Every issuer of a security registered on a national securities exchange which is required to file annual reports on Form 10-K (§ 249.310 of this chapter) or Form U5S (§ 259.5s of this chapter), or which is required to file a report on one of such forms as Part II of Form 16-K (§ 249.316 of this chapter) or Form 19-K (§ 249.319 of this chapter), shall file a semi-annual report on Form 9-K (§ 249.309 of this chapter) for the first half of each fiscal year ending after the close of the latest fiscal year for which financial statements of such issuer were filed in an application for registration of securities on a national securities exchange: *Provided, however* That no such report need be filed for any semi-annual period ending prior to June 30, 1955.

(b) Such reports on Form 9-K (§ 249.309 of this chapter) shall be filed not more than 45 days after the end of the six-month period for which they are filed. However, the report for any period ending prior to the date on which a class of securities of the issuer first becomes effectively registered on a national securities exchange may be filed not more than 45 days after the effective date of such registration.

(c) Notwithstanding paragraph (a) of this section, semi-annual reports on Form 9-K shall not be required to be filed by the following types of issuers:

- (1) Banks and bank holding companies;
- (2) Investment companies;
- (3) Insurance companies, other than title insurance;
- (4) Public utilities and common carriers which file financial reports with the Federal Power Commission, Federal Communications Commission or the Interstate Commerce Commission;

(5) Companies engaged in the seasonal production and seasonal sale of a single-crop agricultural commodity.

(6) Companies in the promotional or development stage to which paragraph (b) or (c) of § 210.5a-01 of this chapter (Rule 5A-01 of Article A of Regulation S-X) is applicable;

(7) Foreign issuers other than private issuers domiciled in a North American country or Cuba.

(d) Notwithstanding the foregoing paragraphs of this section, reports pursuant to this section on Form 9-K shall not be deemed to be "filed" for the purpose of section 18 of the act or otherwise subject to the liabilities of that section, but shall be subject to all other provisions of the act.

§ 240.15d-13 *Semi-annual reports on Form 9-K.* (a) Every issuer which, by reason of an undertaking contained in a registration statement under the Securities Act of 1933, is required to file annual reports on Form 10-K or Form U5S (§ 249.310 or § 259.5s of this chapter) shall file a semi-annual report on Form 9-K (§ 249.309 of this chapter) for the first half of each fiscal year ending after the close of the latest fiscal year for which financial statements of such issuer were filed in a registration statement under the Securities Act of 1933: *Provided, however* That no such report need be filed for any semi-annual period ending prior to June 30, 1955.

(b) Such reports on Form 9-K shall be filed not more than 45 days after the end of the six-month period for which they are filed. However, the report for any period ending prior to the effective date of the registration statement, unless the issuer was subject to this section prior to such date, may be filed not more than 45 days after the effective date of the registration statement.

(c) Notwithstanding paragraph (a) of this section, semi-annual reports on Form 9-K shall not be required to be filed by the following types of issuers:

- (1) Banks and bank holding companies;
- (2) Investment companies;
- (3) Insurance companies, other than title insurance;
- (4) Public utilities and common carriers which file financial reports with the Federal Power Commission, Federal Communications Commission or the Interstate Commerce Commission;

(5) Companies engaged in the seasonal production and seasonal sale of a single-crop agricultural commodity.

(6) Companies in the promotional or development stage to which paragraph (b) or (c) of § 210.5a-01 of this chapter (Rule 5A-01 of Article 5A of Regulation S-X) is applicable;

(7) Foreign issuers other than private issuers domiciled in a North American country or Cuba.

(d) Notwithstanding the foregoing paragraphs of this section, reports pursuant to this section on Form 9-K shall not be deemed to be "filed" for the purpose of section 18 of the act or otherwise subject to the liabilities of that section, but shall be subject to all other provisions of the act.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w)

Inasmuch as reports on the new form are not required for any six-month period ending prior to June 30, 1955, and since issuers filing reports for a six-month period ending on or after that date have 45 days after the end of the period in which to file their reports, the Commission finds that the foregoing action may be made effective immediately upon publication. Accordingly, the foregoing action shall become effective June 23, 1955.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

JUNE 22, 1955.

[F. R. Doc. 55-5451; Filed, July 6, 1955; 8:53 a. m.]

PART 240—GENERAL RULES AND REGULATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934

OVER-THE-COUNTER MARKETS

The Securities and Exchange Commission today announced that it has amended paragraph (b) (2) of § 240.15c3-1 (Rule X-15C3-1) under the Securities Exchange Act of 1934 to grant an exemption from the requirements of the rule to members of the Philadelphia-Baltimore Stock Exchange.

Section 240.15c3-1 provides that no broker or dealer shall permit his aggregate indebtedness to all other persons to exceed 2000 percent of his net capital. Paragraph (c) of the rule defines the terms "aggregate indebtedness", "net capital" and certain other terms used in the rule. Paragraph (b) (2) thereof exempts from the rule the members of certain specified exchanges whose rules and settled practices were deemed by the Commission to impose requirements more comprehensive than the requirements of the rule.

The Philadelphia-Baltimore Stock Exchange has requested that its members be exempt from the provisions of the rule since its rules and settled practices impose requirements as comprehensive as those of other exchanges whose members have been granted an exemption from the rule. Under these circumstances, and since the rules and settled practices of the Philadelphia-Baltimore Stock Exchange may be deemed to impose requirements more comprehensive than the requirements of § 240.15c3-1, the Commission has granted the request. As in previous cases, the exemption is subject to the provision that it may be suspended or withdrawn by the Commission at any time by sending at least 10 days' written notice to the Exchange if it appears to the Commission necessary or appropriate in the public interest or for the protection of investors so to do.

Statutory basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 15 (c) (3) and 23 (a) thereof, and deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under

the act hereby amends paragraph (b) (2) of § 240.15c3-1 to read as stated below.

§ 240.15c3-1 *Ratio of aggregate indebtedness to net capital.* * * *

(b) *Exemptions.* The provisions of this section shall not apply to:

(2) Any member of the American Stock Exchange, Boston Stock Exchange, Los Angeles Stock Exchange, Midwest Stock Exchange, New York Stock Exchange, Philadelphia-Baltimore Stock Exchange, Pittsburgh Stock Exchange, Salt Lake Stock Exchange, or San Francisco Stock Exchange, all of whose rules and settled practices are deemed by the Commission to impose requirements more comprehensive than the requirements of this section: *Provided*, That the exemption as to the members of any exchange may be suspended or withdrawn by the Commission at any time, by sending at least ten (10) days' written notice to such exchange, if it appears to the Commission necessary or appropriate in the public interest or for the protection of investors so to do.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w)

The Commission for good cause finds that notice and public procedure specified in paragraphs 4 (a) and (b) of the Administrative Procedure Act are unnecessary since the rules and practices of the Philadelphia-Baltimore Stock Exchange with respect to the financial responsibility of members impose requirements as comprehensive as the rules and practices of other exchanges which have previously been granted the exemption; and the Commission further finds, in accordance with the provisions of section (4) (c) of the Administrative Procedure Act, that this action has the effect of granting exemption and that this amendment may be, and is hereby, declared effective June 24, 1955.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

JUNE 22, 1955.

[F. R. Doc. 55-5449; Filed, July 6, 1955; 8:52 a. m.]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

SEMI-ANNUAL REPORTS; ADOPTION OF FORM 9-K¹

On January 27, 1955, the Commission published a proposal to adopt a new Form 9-K (17 CFR 249.309) to provide for semi-annual reports to the Commission under the Securities Exchange Act of 1934. The Commission, after considering the comments and suggestions received in regard to the proposal, including the views expressed at a public hearing on the proposal held on March 9, 1955, has adopted the proposed Form 9-K with the changes reflected therein.

¹ Filed as part of original document.

The new form is to be filed only once a year, 45 days after the end of the first half of the fiscal year. Reports on the form are to contain specified items of information with respect to sales and gross revenues, net income before and after taxes, extraordinary and special items, and charges and credits to earned surplus. The form does not require formal statements of profit and loss or earned surplus and is not required to be certified. Provision is made for any necessary or appropriate qualification or explanation of the information given. Where registrants otherwise issue semi-annual statements containing the information called for by the form, copies of such statements may be filed and incorporated by reference in the form in lieu of setting forth the information in the form itself.

This action is taken pursuant to the Securities Exchange Act of 1934, particularly sections 3 (b) 13, 15 (d) and 23 (a) thereof, the Commission deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the act.

Inasmuch as reports on the new form are not required for any six-month period ending prior to June 30, 1955, and since issuers filing reports for a six-month period ending on or after that date have 45 days after the end of the period in which to file their reports, the Commission finds that the foregoing action may be made effective immediately upon publication. Accordingly, the foregoing action shall become effective June 23, 1955.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w)

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

JUNE 22, 1955.

[F. R. Doc. 55-5450; Filed, July 6, 1955; 8:53 a. m.]

TITLE 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Order 180]

PART 154—RATE SCHEDULES AND TARIFFS SUPPLEMENTS REFLECTING REDUCTION IN OCCUPATION TAX OF STATE OF TEXAS

Pursuant to Article 7074 (b) of Vernon's Civil Statutes of the State of Texas, there is levied an occupation tax on the business or occupation of producing gas within the State of Texas, computed as follows:

(a) Until September 1, 1955, the tax is to be paid by each producer on the amount of gas produced and saved within the State equivalent to nine percent (9%) of the market value thereof as and when produced;

(b) From September 1, 1955, until September 1, 1956, the rate of said tax shall be 8 percent of the market value of the gas as and when produced.

The Commission permitted such tax, computed on the basis of the foregoing rate of nine percent (9%) to be charged and collected by each independent producer, subject to the Commission's jurisdiction, without suspension, upon the filing of an appropriate rate schedule or schedules by each producer. A similar rate filing is required to effect the tax reduction from 9 percent to 8 percent as of September 1, 1955.

To simplify the required change, the Commission deems it expedient and in the public interest to waive the 30 days notice requirement under § 154.98 of the Commission's rules and regulations and to eliminate, to the extent feasible, the data and information to be submitted in support of the change, to be effective September 1, 1955.

Accordingly, a producer in submitting a supplement to any of its rate schedules on file with the Commission, to reflect the statutory reduction in the rate of the above-described tax from nine percent (9%) to eight (8%) as of September 1, 1955, may, notwithstanding other provisions of the Commission's rules, make such filings as hereinafter provided. Early filing, however, will assist in orderly processing.

The Commission finds: It is appropriate and in the public interest in the administration of the Natural Gas Act (a) to waive the 30 days notice requirements set forth in section 4 (d) of the act and § 154.98 of the Commission's rules and regulations (Order No. 174-B) with respect to the filing of any supplement reflecting a reduction in the Texas occupation tax from 9 percent to 8 percent as of September 1, 1955, provided such filing is made on or before October 1, 1955, and, (b) with respect to the filing of any supplement reflecting the reduction in the Texas occupation tax from 9 percent to 8 percent, to submit only the data in the form set forth below, in lieu of the data required by § 154.94 (e) of the Commission's rules and regulations (Order No. 174-B)

COMPARISON OF RATES

Date	Price per Mcf	Tax reimbursement per Mcf	Total rate per Mcf
August 31, 1955			
September 1, 1955			

Sales for 12 months ended June 30, 1955, _____ Mcf.

The Commission orders: Rate schedules reflecting the reduction from 9 percent to 8 percent in the occupation tax of the State of Texas as of September 1, 1955, may be filed on less than the 30 days notice requirements of section 4 (d) of the Natural Gas Act and in accordance with the findings of this order.

(Sec. 16, 52 Stat. 830; 15 U. S. C. 717)

Adopted: June 22, 1955.

Issued: June 30, 1955.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5420; Filed, July 6, 1955; 8:46 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

PART 173—RETURNS OF SUBSTANCES OR ARTICLES

On April 6, 1955, a notice of proposed rulemaking with respect to regulations designated as Part 173 of title 26 (1954) of the Code of Federal Regulations was published in the FEDERAL REGISTER (20 F. R. 2172). The purposes of the proposal were to adopt, revise, and consolidate Regulations 17 and 92, 1951 editions (26 CFR (1939) Parts 173 and 174, 16 F. R. 3111 and 16 F. R. 5110) Returns of Substances or Articles, as amended, and to amend such adopted regulations (a) to implement the regulatory provisions of the Internal Revenue Code of 1954; (b) to consolidate "Part 173" and "Part 174" in order to facilitate reference to the regulations and to reduce the cost of printing; (c) to amend the definitions of "distilled spirits" and "substance" in order to include chemicals which may be used for the manufacture of synthetic alcohol by chemical reaction; (d) to provide that the required records shall be maintained for a period of three years since the superseded regulations had no such provision; and (e) to amend certain definitions and add others, so as to clarify meanings and avoid repetition and to conform such definitions to administrative decisions and the 1954 Code. No relevant matter having been presented by interested parties regarding the regulations proposed, the regulations so published are hereby adopted subject to the changes set forth below.

PARAGRAPH 1. The preamble is amended as follows:

- (A) The first paragraph is amended.
(B) A new third paragraph is added.

PAR. 2. Subpart B is amended as follows:

- (A) By renumbering §§ 173.8 to 173.12, inclusive, to read "173.9" through "173.13" respectively and by renumbering §§ 173.13 to 173.16, inclusive, to read "173.15" through "173.18" respectively.
(B) By inserting a new § 173.8.
(C) By inserting a new § 173.14.

PAR. 3. The first sentence in § 173.20 of Subpart C is amended by striking the cross reference to § 173.14 and inserting a cross reference to § 173.16 in lieu thereof.

PAR. 4. The first sentence in § 173.25 of Subpart D is amended by striking the cross reference to § 173.14 and inserting a cross reference to § 173.16 in lieu thereof.

PAR. 5. The first sentence in § 173.31 of Subpart E is amended by striking the cross reference to § 173.14 and inserting a cross reference to § 173.16 in lieu thereof.

[SEAL]

O. GORDON DELK,
Acting Commissioner of
Internal Revenue.

Approved: June 30, 1955.

M. B. FOLSOM,
Acting Secretary of the Treasury.

Preamble. 1. The regulations in this part shall supersede Regulations 17 and 92, 1951 editions (26 CFR (1939) Parts 173, 174, 16 F. R. 3111 and 5110)

2. These regulations shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced prior to the effective date of these regulations. All formal written demands issued under prior statutory authority or regulations prior to the effective date of these regulations and outstanding shall remain in force.

3. The regulations in this part shall be effective on the first day of the first month which begins not less than 30 days after the date of publication in the FEDERAL REGISTER.

Subpart A—Scope of Regulations

- Sec.
173.1 Returns of substances or articles of the character used in manufacture or recovery of distilled spirits.
173.2 Forms prescribed.

Subpart B—Definitions

- 173.5 Meaning of terms.
173.6 Article.
173.7 Assistant regional commissioner.
173.8 Commissioner.
173.9 Demand letter.
173.10 Dispose.
173.11 Distilled spirits.
173.12 Person.
173.13 Plurals.
173.14 Regional Commissioner.
173.15 Render.
173.16 Substance.
173.17 Tax.
173.18 United States.
173.19 U. S. C.

Subpart C—Requirement of Returns

- 173.20 Returns required.
173.21 Rendition of returns.

Subpart D—Records to be Maintained

- 173.25 Records required.

Subpart E—Tax and Penalties

- 173.30 Tax.
173.31 Penalties.

AUTHORITY: §§ 173.1 to 173.31 issued under 68A Stat. 917; 26 U. S. C. 7805. Interpret or apply 68A Stat. 596, 639, 657, 685, 700, 895; 26 U. S. C. 5001 (a) (6), 5213 (a), 5305, 5609, 5686, 7502.

SUBPART A—SCOPE OF REGULATIONS

§ 173.1 *Returns of substances or articles of the character used in the manufacture or recovery of distilled spirits.* This part relates to the returns and records of dispositions of substances or articles of the character used in the manufacture or recovery of distilled spirits.

§ 173.2 *Forms prescribed.* The Director, Alcohol and Tobacco Tax Division, is authorized to prescribe all forms required by this part, including demand letters, reports, and returns. Information called for shall be furnished in accordance with the instructions on the forms or issued in respect thereto.

SUBPART B—DEFINITIONS

§ 173.5 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

§ 173.6 *Article.* "Article" shall mean denatured alcohol, denatured rum, or any product or preparation which con-

tains more than 25 percent by volume of denatured alcohol or denatured rum.

§ 173.7 *Assistant regional commissioner* "Assistant regional commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to and functions under the direction and supervision of the Regional Commissioner of Internal Revenue.

§ 173.8 *Commissioner* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 173.9 *Demand letter* The demand letter" is the formal requirement of the assistant regional commissioner that a person disposing of any substance or article shall render a correct return.

§ 173.10 *Dispose.* "Dispose" and all forms of the word shall mean and include, but not by way of limitation, consign, sell, transfer, deliver, destroy, or lose, and all forms of those words.

§ 173.11 *Distilled spirits.* "Distilled spirits" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, produced or recovered from any source or material.

§ 173.12 *Person.* The term "person" shall mean and include an individual, trust, estate, partnership, association, company, or corporation.

§ 173.13 *Plurals.* Words in the singular shall include the plural.

§ 173.14 *Regional Commissioner* "Regional Commissioner" shall mean the Regional Commissioner of Internal Revenue in each of the internal revenue regions.

§ 173.15 *Render* "Render" shall mean to deliver the completed return to the office indicated in the demand letter, not later than the date required by the demand letter, or to mail such completed return, in an envelope properly addressed and stamped, in sufficient time for such envelope to be postmarked by the Post Office Department not later than the date required by the demand letter. The time and date of the United States postmark shall constitute the time and date of delivery of the return to the designated office.

§ 173.16 *Substance.* The term "substance" shall mean and include, but not by way of limitation, any of the following: Any grade or type of sugar; sirup, or molasses derived from sugar cane, sugar beets, corn, sorghum, or any other source; starch; potatoes; grain, or corn meal, corn chops, cracked corn, rye chops, middlings, shorts, bran, or any other grain derivative; malt; malt sugar, or malt sirup; oak chips, charred or not charred; charred kegs or barrels; yeast; cider; honey; fruits; grapes; berries; fruit, grape or berry juices or concentrates; wine; caramel; burnt sugar; gin flavor; Chinese bean cake or Chinese wine cake; urea; ammonium phosphate, ammonium carbonate, ammonium sulphate, or any other yeast food; ethyl acetate or any other ethyl ester; any other material of the character used in the manufacture of distilled spirits, or any chemical or other material suitable for promoting or accelerating fermentation; any chemical or material of the

character used for the production of distilled spirits by chemical reaction; or any combination of such materials or chemicals.

§ 173.17 *United States*. "United States" shall mean the States, the Territories of Alaska and Hawaii, and the District of Columbia.

§ 173.18 *U. S. C.* "U. S. C." shall mean the United States Code.

SUBPART C—REQUIREMENT OF RETURNS

§ 173.20 *Returns required*. Every person in the United States who disposes of any substance or article, as defined in §§ 173.16 or 173.6, shall, when required by a demand letter issued by the assistant regional commissioner, and until notified to the contrary in writing by such officer, for the purpose of enabling the determination in accordance with law as to whether all taxes due with respect to any distilled spirits produced or recovered from such substances or articles have been paid, render in writing on Form 169, for the periods specified in the demand letter, correct returns showing (a) the date of each disposition of such substances or articles, and in such quantities, as may be specified by the assistant regional commissioner in the demand letter; (b) the quantity and kind of each substance or article disposed of; (c) the name and complete address of each purchaser, consignee, and other person actually receiving such substances or articles, and of any other person for, by, or through whom the substances or articles were ordered or disposed of; (d) the date and method of shipment or delivery and (e) if delivered or shipped by truck or other conveyance, the State or city registration number of such truck or conveyance, and the name and complete address of the operator of such truck or conveyance as shown by his operator's license, giving the number of such operator's license and the date of its issuance. Where shipment is made by a common carrier, such as a railroad, trucking company, steamboat line, etc., the information required by (e) of this section need not be reported, but in lieu thereof there shall be furnished the complete routing of the shipment, full name and address of first carrier, and railroad car number or name of ship.

§ 173.21 *Rendition of returns*. The return, Form 169, shall be rendered to the officer or employee of the Internal Revenue Service designated in the demand letter. The return shall be prepared and rendered in accordance with the instructions contained in such demand letter.

SUBPART D—RECORDS TO BE MAINTAINED

§ 173.25 *Records required*. Every person in the United States who disposes of any substance or article, as defined in §§ 173.16 or 173.6, and who has been required to render returns, shall maintain at his place of business such books, records, documents, papers, invoices, bills of lading, etc., relating to or connected with any such disposition, as will enable such person to make the required return. Such books, records, documents, papers,

invoices, bills of lading, etc., shall be maintained for a period of three years and shall be kept readily available for, and open to, inspection by any Internal Revenue Officer during the hours of business of such person.

SUBPART E—TAX AND PENALTIES

§ 173.30 *Tax*. Any person who produces, withdraws, sells, disposes of, or uses, denatured alcohol, denatured rum, or articles, as defined in § 173.6, in violation of law shall be required to pay the tax on such denatured alcohol, denatured rum, or articles, as provided by section 5001 (a) (6) Internal Revenue Code of 1954.

§ 173.31 *Penalties*. Any person who willfully violates any provision of section 5213 (a) of the Internal Revenue Code of 1954 or of these regulations with respect to substances, as defined in § 173.16, shall, upon conviction, be fined or imprisoned as provided by section 5609 of the Internal Revenue Code of 1954. Any person who willfully violates any provision of section 5305 of the Internal Revenue Code of 1954 or of this part, with respect to articles, as defined in § 173.6, shall, upon conviction, be fined or imprisoned as provided in section 5686 of the Internal Revenue Code of 1954.

[F. R. Doc. 55-5448; Filed, July 6, 1955; 8:52 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter I—Home Loan Bank Board, Housing and Home Finance Agency [No. 8555]

Subchapter C—Federal Savings and Loan System

PART 145—OPERATIONS

PERMITTING LIBERALIZED TERMS FOR CERTAIN INSTALLMENT LOANS

JULY 1, 1955.

Resolved that, pursuant to § 108.11 of the general regulations of the Home Loan Bank Board (24 CFR 108.11) and § 142.1 of the rules and regulations for the Federal Savings and Loan System (24 CFR 142.1) subdivision (iv) of subparagraph (1) of paragraph (b) of § 145.6-1 of the rules and regulations for the Federal Savings and Loan System (24 CFR 145.6-1) is hereby amended, effective July 6, 1955, to read as follows:

§ 145.6-1 *Lending powers under sections 13 and 14 of Charter K.* * * *

(b) * * *
(1) * * *

(iv) 66½ percent of the value of property designed or used primarily for residential purposes: *Provided*, That the loan is an installment loan repayable monthly within 15 years; *Provided further* That, where a governmental entity certifies to the Federal association, in advance of the making of the loan, that the development, alteration, repair, or improvement of such property is essential to, or in furtherance of the objectives of, a program of slum clearance or urban renewal which has been or is expected to be undertaken in whole or in part by such governmental entity, the loan may

be an installment loan repayable monthly within 25 years;

Resolved further that, as this amendment only liberalizes the percentage of the value of the property and the maximum maturity in the case of certain loans which Federal savings and loan associations are permitted to make, the Board hereby finds that notice and public procedure thereon are unnecessary under the provisions of § 108.12 of the general regulations of the Home Loan Bank Board (24 CFR 108.12) or section 4 (a) of the Administrative Procedure Act and, as such amendment relieves restrictions, deferment of the effective date thereof is not required under section 4 (c) of said act.

(Sec. 5, 48 Stat. 132, as amended; 12 U. S. C. 1464)

By the Home Loan Bank Board.

[SEAL]

H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 55-5460; Filed, July 6, 1955; 8:55 a. m.]

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 6—DETERMINATIONS OF AREAS OF SUBSTANTIAL UNEMPLOYMENT UNDER EXECUTIVE ORDER 10582

By virtue of the Buy American Act, 47 Stat. 1520, 41 U. S. C. 102-d and related statutes, and pursuant to the authority vested in me by section 3 (c) of Executive Order 10582, December 17, 1954, 19 F. R. 8723, the following regulations are hereby issued:

Sec.

6.1 Purpose.

6.2 Areas of substantial unemployment.

6.3 Criteria for determination of areas of substantial unemployment.

6.4 Determinations.

AUTHORITY: §§ 6.1 to 6.4 issued under 47 Stat. 1520, 41 U. S. C. 102-104, E. O. 10582, 19 F. R. 8723, 3 CFR, 1954 Supp.

§ 6.1 *Purpose*. Section 3 (c) of Executive Order 10582, issued by virtue of the Buy American Act and related statutes, permits rejection by executive agencies of any foreign bid or offered price for materials, articles or supplies in any situation in which the domestic low bidder would produce substantially all of the materials in areas of substantial unemployment as determined by the Secretary of Labor after a determination by the President that such preference would be in the national interest. The President has determined that it is at this time in the national interest to give a preference to United States low bidders who will produce substantially all of the materials contracted for in labor surplus areas. This part is established for the purpose of issuing determinations of areas of substantial unemployment as required by the Executive Order.

§ 6.2 *Areas of substantial unemployment*. Areas of substantial unemployment within the meaning of Executive Order 10582, 19 F. R. 8723, are labor market areas in which the current and

prospective local labor supply substantially exceeds labor requirements.

§ 6.3 *Criteria for determination of areas of substantial unemployment.* In determining whether an area of substantial unemployment exists, the Secretary of Labor will consider whether:

(a) The number of workers seeking employment in the area is in excess of currently available job opportunities, and this situation is expected to continue through the next 2- and 4-month period.

(b) Unemployment is 6 or more percent of the total labor force.

(c) Net nonagricultural labor requirements for 2 and 4 months hence indicate declining employment levels or no significant increase in labor requirements.

(d) The current or anticipated labor surplus is not due primarily to seasonal or temporary factors.

§ 6.4 *Determinations.* The Secretary of Labor will make determinations of areas of substantial unemployment on his own motion or on the application of any procurement agency. To the extent he finds necessary or appropriate, the Secretary will issue to procurement agencies listings of areas which he determines are areas of substantial unemployment.

Signed at Washington, D. C., this 29th day of June 1955.

JAMES P MITCHELL,
Secretary of Labor

[F. R. Doc. 55-5419; Filed, July 6, 1955; 8:46 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 311—PUBLIC USE OF CERTAIN RESERVOIR AREAS

PART 322—PUBLIC USE OF SALT PLAINS NATIONAL WILDLIFE REFUGE AND GREAT SALT PLAINS DAM AND RESERVOIR AREA, SALT FORK OF ARKANSAS RIVER, OKLAHOMA

PART 323—PUBLIC USE OF THE McNARY RESERVOIR AREA, OREGON AND WASHINGTON

ABANDONMENT OF PERSONAL PROPERTY

The Secretary of the Army hereby prescribes the following additional rules and regulations to those heretofore prescribed and published in Title 36, Chapter III, Parts 311, 322, and 323 of the Code of Federal Regulations, as follows:

1. Add new § 311.19 to Part 311, new § 322.17 to Part 322; and new § 323.18 to Part 323, as follows:

§ ——— *Abandonment of personal property.* Abandonment of personal property on the land or waters of the reservoir area is prohibited. Personal property shall not be left unattended upon the lands and waters of the reservoir except in accordance with the regulations prescribed in this part or under permits issued therefor. The Government assumes no responsibility for per-

sonal property and if such property is abandoned or left unattended in other than places designated in a permit issued therefor or under a regulation for a period in excess of 48 hours it will be impounded, and if not reclaimed by the owners thereof within ninety days will be sold, destroyed, converted to Government use, or otherwise disposed of, as determined by the District Engineer or his designated representative.

[Regs., 16 June 1955, ENGWO] (Sec. 4, 58 Stat. 889, as amended; 16 U. S. C. 460d)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
Acting The Adjutant General.

[F. R. Doc. 55-5417; Filed, July 16, 1955; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 96—AIR MAIL SERVICE

CLAIMS FOR DOMESTIC AIR MAIL SERVICE

Part 96—Air Mail Service is amended by the addition of a new § 96.48, to read as follows:

§ 96.48 *Claims for domestic air mail service—(a) Decentralization.* The claims for domestic air mail service will be decentralized as designated in paragraph (f) of this section, effective with the June 1955 bills, by July 5, 1955. Unpaid claims will also be transferred to the designated offices.

(b) *Unbilled claims.* The trunk lines shall follow CAB Order E-9211, dated May 17, 1955 in preparing unbilled claims. These claims shall be made on Form 2703 (Carrier's claim for Air Mail Transportation) supported by Form 2717 (Carrier's entry of weight of air mail dispatched and transferred) and an exception sheet.

(c) *Exception sheet.* (1) The exception sheet shall be prepared as specified at the November 6-7 meeting of the trunk lines and the Post Office Department. This sheet shall contain the following information:

- (i) Trip number.
- (ii) Trip date.
- (iii) Origin.
- (iv) Destination.
- (v) Explanation of irregular off-loading.
- (vi) Pounds involved.
- (vii) Miles.
- (viii) Pound-miles.

(2) The exception sheet is in lieu of Form 2702 (used by Carrier for reporting disposition of mails and other details of trip such as times of arrival and departure)

(d) *Feeder lines and local service.* Feeder lines and local service carriers shall continue billing on Form 2703 (Carrier's claim for Air Mail Transportation) supported by Form 2720 (monthly trip detail sheet). The rates applicable to each carrier shall be used.

(e) *Inquiries.* (1) Any questions concerning the transfer of air mail claims may be directed to:

Director, Division of Accounting,
Room 2502,

Post Office Department,
Washington 25, D. C.

(2) Inquiries prior to July 5, 1955, about unpaid claims also may be directed to the Director, Division of Accounting. The regional controller designated in paragraph (f) of this section will receive all inquiries after that date.

(f) *Post office regional controllers designated to pay domestic air mail claims.*

Regional Controller and Airlines

Regional Controller, Main Post Office Building, Philadelphia 4, Pa.: Colonial Airlines, Mohawk Airlines, New York Airways, Northeast Airlines, Lake Central Airlines, Helicopter Air Service.

Regional Controller, Parcel Post Building, Richmond 19, Va.: Allegheny Airlines, Piedmont Aviation, National Airlines, Caribbean Airlines, Eastern Air Lines.

Capital Airlines, transferred November 1, 1954.

Regional Controller, Main Post Office Building, P. O. Box 1557, Dallas 1, Tex.: Delta Airlines, Southern Airways, Braniff Airways, Central Airlines, Trans Texas Airways.

American Airlines, Transferred June 6, 1955.

Regional Controller, 1st and Hennepin Streets, Minneapolis 1, Minn.: Northwest Airlines, Ozark Air Lines, North Central Airlines.

Regional Controller, Building 56, Federal Center, Denver 2, Colo.: United Airlines, Trans-World Airlines, Frontier Airlines, Continental Air Lines.

Regional Controller, Main Post Office Building, P. O. Box 3738, Portland 8, Oreg.: West Coast Airlines, Alaska Airlines, Alaska Coastal Airlines, Byers Airways, Cordova Airlines, Ellis Air Lines, Northern Consolidated Airlines, Pacific Northern Airlines, Pan American (Alaska) Air Ways, Reeve Aleutian Airways, Wren Alaska Airlines.

Regional Controller, 1011 Bryant Street, San Francisco 19, Calif.: Bonanza Air Lines, Southwest Airways, Los Angeles Airways, Trans Pacific Airlines, Western Airlines, Hawaiian Airlines.

(R. S. 161, 396; secs. 304, 309, 42 Stat. 24, 25, sec. 1 (b), 63 Stat. 1066; 5 U. S. C. 22, 1332-15, 369)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor

[F. R. Doc. 55-5441; Filed, July 6, 1955; 8:50 a. m.]

TITLE 41—PUBLIC CONTRACTS

Chapter II—Division of Public Contracts, Department of Labor

PART 201—GENERAL REGULATIONS

MISCELLANEOUS AMENDMENTS

Pursuant to the requirements of section 3 of the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001 et seq.) and pursuant to authority under section 4 of the Walsh-Healey Public Contracts Act, as amended (49 Stat. 2038; 41 U. S. C. 38 et seq.) § 201.101 of the general regulations (41 CFR Part 201) is hereby amended by the addition of paragraph (c) which reads as follows:

(c) (1) Except as hereinafter provided, every bid received from any bidder who does not fall within one of the foregoing categories shall be rejected by the contracting officer.

(2) Whenever justice and the public interest will be served, bids for a contract or class of contracts will be exempted from the foregoing requirement by the Secretary of Labor upon the request of the head of the contracting agency or department when accompanied by his finding of fact that it will be so difficult to obtain satisfactory bids for the contract or class of contracts under the stipulated restrictions, that the conduct of the Government business will be seriously impaired.

(Sec. 4, 49 Stat. 2038; 41 U. S. C. 38)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 1st day of July, 1955.

JAMES P. MITCHELL,
Secretary of Labor

[F. R. Doc. 55-5456; Filed, July 6, 1955;
8:54 a. m.]

TITLE 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 108—FEDERAL ASSISTANCE BEGINNING JULY 1, 1954, IN THE CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

FIRST DEADLINE FOR APPLICATIONS WITH RESPECT TO FUNDS AVAILABLE DURING FISCAL YEAR 1956

Subpart B of Part 108, 45 CFR (19 F. R. 6647, October 15, 1954) issued pursuant to title III of Public Law 815, 81st Congress (64 Stat. 967) as added by Public Law 246, 83d Congress (67 Stat. 522) and as amended by Public Law 731, 83d Congress (68 Stat. 1005) is hereby amended by adding a new section in order to establish a first deadline date for filing applications with respect to funds available during fiscal year 1956. The new section reads as follows:

§ 108.21 *First deadline for applications with respect to funds available during fiscal year 1956.* Pursuant to section 303 of title III, July 15, 1955, is fixed as the date on or before which all complete applications for payments to which applicants may be entitled under title III from funds then available shall be filed. Complete applications heretofore filed after December 1, 1954, in compliance with this part shall be considered as filed for purposes of this section. Such complete applications may be modified or amended on or before July 15, 1955.

(Sec. 208, 64 Stat. 975; 20 U. S. C. 278)

[SEAL] S. M. BROWNELL,
United States Commissioner
of Education.

Approved: July 1, 1955.

ROSSELL B. PERKINS,
Acting Secretary of Health,
Education, and Welfare.

[F. R. Doc. 55-5440; Filed, July 6, 1955;
8:50 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Ex Parte MC-40]

PART 7—LIST OF FORMS, PART II, INTERSTATE COMMERCE ACT

PART 194—REPORTING OF ACCIDENTS

QUALIFICATIONS AND MAXIMUM HOURS OF SERVICE OF EMPLOYEES OF MOTOR CARRIERS AND SAFETY OF OPERATION AND EQUIPMENT

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 27th day of June A. D. 1955.

The matter of filing accident reports by motor carriers under the Motor Carrier Safety Regulations prescribed by order dated April 14, 1952, being under consideration; and

It appearing, that certain changes in the form of accident reports and the methods of acknowledging reports in the field offices of the Bureau of Motor Carriers would effect greater efficiency and expedition in the receipt and transmission of such reports and economies of labor and materials,

It is ordered, that the order dated September 17, 1948 prescribing Form BMC 50-B (1949) and Form BMC 50-T (1949) be, and it is hereby vacated and set aside;

It is further ordered, that Part 7 be revised to read as follows:

§ 7.50b *B. M. C. 50-B (1955) (Passenger Carrying) Motor Carrier Accident Report;*

§ 7.50t *B. M. C. 50-T (1955) (Property Carrying) Motor Carrier Accident Report;*

It is further ordered, that Part 194 be amended by deleting the text of §§ 194.3, 194.4 and 194.5 and substituting in lieu thereof the following:

§ 194.3 *Reports of accidents involving passenger-carrying vehicles.* A detailed report of each reportable accident involving a bus operated by him or it shall be prepared by the motor carrier on Form BMC-50-B (1955)¹ (§ 7.50b of this chapter)

§ 194.4 *Report of accidents involving property-carrying or service vehicles.* A detailed report of each reportable accident involving a motor vehicle other than a bus operated by him or it shall be prepared by the motor carrier on Form BMC-50-T (1955)¹ (§ 7.50t of this chapter).

§ 194.5 *Filing of accident reports.* The original and one copy of each accident report prepared in compliance with these sections shall be filed by the motor carrier as soon as possible, and in every instance within 15 days after occurrence of the accident, with the District Director, Bureau of Motor Carriers, for the district in which the motor carrier has his or its principal place of business: *Provided*, That if the motor carrier has his or its principal place of business out-

side the borders of the United States, the original report of each such accident occurring in the United States, and one copy thereof, shall be filed within 15 days after the occurrence of the accident with the District Director as shown in § 190.40 of this subchapter.

It is further ordered, that the first instruction set forth in § 194.12 (the paragraph beginning with the word "General:") be amended by deleting the text thereof and substituting in lieu thereof the following:

General: Every applicable item, and the detachable stub, must be filled in as fully and as accurately as information accessible to the motor carrier, at the time of filing the report will permit.

It is further ordered, that this order shall become effective August 1, 1955, and shall continue in effect until the further order of the Commission, and

It is further ordered, that notice of this order shall be given all common carriers by motor vehicle and all contract carriers by motor vehicle of record with this Commission by mailing to each of them a copy thereof, and to other motor carriers and the general public by depositing a copy thereof in the office of the Secretary of the Commission, Washington, D. C., and by filing a copy thereof with the Director, Division of the Federal Register.

(49 Stat. 546, as amended, Sec. 835, 62 Stat. 739; 49 U. S. C. 304, 18 U. S. C. 835)

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-5444; Filed, July 6, 1955;
8:51 a. m.]

PART 211—SCOPE OF OPERATING AUTHORITY; ROUTES

PART 216—DEVIATION FROM AUTHORIZED ROUTES

USE OF RELOCATED, RENUMBERED, AND ALTERNATE HIGHWAYS, DEVIATION FROM AUTHORIZED ROUTES AND DEADHEADING OF EMPTY VEHICLES BY MOTOR COMMON AND CONTRACT CARRIERS SUBJECT TO THE INTERSTATE COMMERCE ACT

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of June A. D. 1955.

A notice of proposed rule making was published in the FEDERAL REGISTER June 4, 1954 (19 F. R. 3308) concerning the adoption of rules governing deviation from their authorized regular routes by motor carriers holding authority from this Commission, through the use of (a) relocated, renumbered, and alternate highways which parallel their authorized routes; (b) by-pass highways around congested areas or hazardous segments of authorized highways; (c) new bridges and tunnels constructed for the purpose of relieving congestion or eliminating dangerous curves on existing highways; (d) ferries and bridges (old or new) when conditions require their use to continue a service authorized; and (e) any avail-

¹ Filed as part of the original document.

able highway to deadhead empty vehicles incidental to authorized transportation in interstate or foreign commerce.

Due consideration having been given to the written data, views, and arguments submitted to the Commission in favor of or against the proposed rules, and revision thereof to the extent found justified having been made:

It is ordered, That Part 211 be, and it is hereby, revised by deleting the entire context, except § 211.8 which is retained in its present form, and substituting in lieu thereof the following:

§ 211.1 *Deviation from regular service routes, and from specific points, authorized in connection with certain irregular route operations, involving the use of relocated, renumbered, and alternate highways, interchange of equipment, and deadheading empty vehicles, by motor carriers subject to the Interstate Commerce Act—(a) Applicability of rules.* Subject to other rules and regulations applicable to any specific situation, and which are not to be superseded by this part, such as the Commission's Regulations For The Transportation of Explosives and Other Dangerous Articles (§ 197.1 (d) of this chapter), the rules and regulations in this part, which are found to be just and reasonable, are hereby adopted and made applicable to the operations of all regular route motor carriers and, for interchange of equipment, to irregular route carriers authorized to serve specific points in the transportation of explosives and other dangerous articles, operating pursuant to certificates and permits issued by this Commission, with the following exceptions:

(1) The rules and regulations in this part shall not apply to operations by motor common carriers of passengers within 25 miles of the city limits of New York, N. Y.

(2) A carrier may not render service pursuant to the rules and regulations in this part at any point in connection with an alternate or connecting route.

(3) A carrier may not invoke these rules and regulations to deviate from an alternate or connecting route specifically authorized in its certificate or permit.

(b) *Definitions.* As used in this part, the following words and terms are construed to mean:

(1) *Designated highway.* A highway identified for record purposes by number, letter, name, turnpike, "unnumbered county or state road" and the like.

(2) *Redesignated highway.* A highway to which has been assigned a new designation (by number, letter, name, or other identifying reference) in lieu of the designation previously assigned thereto.

(3) *Relocated highway.* A highway which has been constructed in a new location in lieu of an existing highway, or segments thereof, and which is intended to replace such existing highway or segments for public use.

(4) *Regular service route.* A designated highway or series of highways over which a motor carrier is authorized to operate with provision in the certificate or permit for service at terminal, inter-

mediate, or off-route points as specified therein, as distinguished from alternate or connecting routes as herein defined. Such service route may consist of a single route description in a carrier's authority or a combination of two or more route descriptions by jounder at common service points.

(5) *Alternate route.* A designated highway or series of highways over which a motor carrier may deviate from a point on an authorized regular service route and return at some other point on the same regular service route for operating convenience or to avoid congested areas, dangerous grades, sharp curves, or other hazards on the regular route.

(6) *By-pass route.* A route designated by proper authority for the general purpose of avoiding traffic congestion in a heavily populated area with resultant "speeding up" of motor vehicle operations.

(7) *Connecting route.* A designated highway or series of highways over which a motor carrier may operate in transferring its operations from one authorized regular service route to another authorized regular service route.

(8) *Detour route.* The highway or highways designated by proper authority for public use while the highway or highways normally used between specified points is or are temporarily closed or restricted, by reduced weight limits or other factors, for repairs or reconstruction or for any other valid reason.

(9) *Deviation route.* Any of the facilities covered by the rules and regulations in this part used by a motor carrier in lieu of its authorized regular service route.

(10) *Deadheading empty vehicles.* The movement of vehicles, either empty or carrying so-called exempt commodities, from point where cargo is delivered back to the carrier's terminal or to another authorized point of service.

(c) *Special conditions.* In addition to the general conditions set forth in paragraph (d) of this section, the following special conditions shall be applicable as indicated in each instance:

(1) *Redesignated highway.* Where a carrier holds authority to operate over a specified highway and thereafter that highway or a segment thereof is redesignated, the carrier shall advise the Commission by letter giving sufficient information regarding the old and the new designation, the points between which the highway designation has been changed and where such highway is described in the carrier's authority, to permit prompt change on the records of the Commission. The new designation of the highway will be shown when the Commission reissues the certificate or permit.

(2) *Rebuilt highways and abandonment of old highways.* Where a carrier holds authority to operate over a specified highway and thereafter that highway or a segment thereof is rebuilt, with curves reduced or eliminated, involving relocation of portions of such highway or segment thereof, the old highway or segment being no longer maintained for use by the general public, and the new or

relocated highway or segment is identified by the same designation as the old or abandoned highway, the carrier may operate over such relocated portions of the highway under its authority, and without notice to the Commission of such change, provided there is no change in the service which was rendered from the old highway, except that service may be rendered at intermediate points on the new highway which previously were served as off-route points from the old highway, and points previously served as intermediate points on the old highway may be served as off-route points in connection with operations over the new highway.

(3) *Relocated highway and maintenance of old highway under new designation.* Where a carrier holds authority to operate over and serve points on or from a specified highway and thereafter that highway or a segment thereof is relocated and the old highway is maintained under a new designation, the carrier must continue to operate over the old highway and advise the Commission of the change in the highway designation as specified in subparagraph (1) of this paragraph; or

(i) If the relocated highway is given the designation of the old highway and the carrier desires to operate over such relocated highway as an alternate route it may do so: *Provided*, That it continues to furnish service from the old highway at the authorized points; that it advises the Commission of the change in the designation of the old highway as specified in subparagraph (1) of this paragraph; and that it complies with the "general conditions" outlined in paragraph (d) of this section; or

(ii) If in connection with a regular service route the carrier is not authorized to serve any point on or from the portion of the old highway involved and desires to use only the new highway which bears the old highway designation as its operating route, it may do so provided it promptly advises the Commission of such change giving descriptions of the old and the new highways between the points involved; but

(iii) If the carrier desires to use the new highway for the purpose of serving intermediate or off-route points authorized to be served on or from the old highway appropriate authority for such operation must first be obtained from the Commission.

(4) *Highways and streets within commercial zones.* If pursuant to the provisions of the Commission's order in Ex Parte No. MC 37, dated February 11, 1952, as revised by order dated July 9, 1952, a motor carrier of property has the right to serve points in the commercial zone of a municipality or in a defined territory adjacent to an unincorporated community by virtue of holding authority to serve the base municipality or unincorporated community, the carrier may serve all places within such municipality and its commercial zone or unincorporated community and defined adjacent territory by use of any highway or street located therein, without notice to the Commission, provided that under its authority the carrier is not restricted

to the use of specified highways or streets.

(5) *By-pass route.* Where a new highway is constructed or one already constructed is designated for the purpose of avoiding congested areas or a difficult or hazardous segment of an existing highway, a carrier desiring to operate over such highway as a by-pass or alternate route to an authorized regular service route may do so provided it complies with the "general conditions" outlined in paragraph (d) of this section.

(6) *Bridges, tunnels, and ferries.* Where a new bridge or tunnel is constructed to replace an old bridge or a ferry, or to eliminate a hazardous curve or grade, a carrier desiring to use such new bridge or tunnel may do so, subject to the Commission's Safety Regulations (§ 179.1 (d) of this chapter) and subject also to the "general conditions" outlined in paragraph (d) of this section.

(7) *Detour route.* When, subsequent to issuance of a carrier's authority, for any cause over which a carrier has no control operations over its authorized service route or segment thereof are rendered unsafe, or when a federal, state, county, or other government official, in the exercise of police powers, temporarily prohibits the use of an authorized service route, or when a highway or a segment thereof which comprises all or any portion of the carrier's authorized regular service route is closed or weight or other restrictions are placed thereon which temporarily prevent the operation of the equipment regularly and normally used by the carrier over that particular route, it may use the officially designated detour route in lieu of the closed or restricted highway. If use of the detour route will be for more than 30 days and the distance over the detour route is less than 90 percent of the distance over the authorized service route a statement must be obtained from the State Highway Department, and forwarded to this Commission, showing the nature of the condition which prevents operations over the authorized route, the period it is anticipated that the service route cannot be used, and proper identification of the official detour route. Such statement is not required if use of the detour route will be for not more than 30 days, or if it can be used as an alternate route under the provisions of subparagraph (8) of this paragraph. The carrier must resume operations over the authorized service route immediately upon removal of the condition which necessitated use of the detour route.

(8) *Alternate route for operating convenience only.* Where a motor carrier is authorized to operate over a regular service route parallel to other highways which afford a reasonably direct and practicable route between points on the regular service route, it may use such other highways as an alternate route for operating convenience only (with no service at intermediate or off-route points in connection therewith), subject to the "general conditions" outlined in paragraph (d) of this section, provided the distance over such alternate route is not less than 90 percent of the distance

over the carrier's authorized regular service route.

(9) *Deadheading empty equipment.* A motor carrier may deadhead empty equipment over any highway which will provide a reasonably direct and practicable return of the equipment to the carrier's terminal or to an authorized service point.

(10) *Deviation from regular service routes in the transportation of U. S. Mail by motor carriers of property.* Common and contract motor carriers of property holding authority to operate over regular service routes, without obtaining prior authority therefor, in delivering or picking up the U. S. Mail at points within 10 airline miles of the authorized service routes, under contract with the Post Office Department, transporting authorized commodities in the same vehicle with the mail, subject to the "general conditions" outlined in paragraph (d) of this section.

(11) *Interchange of equipment by common carriers of explosives and other dangerous articles.* Interchange of equipment by common carriers holding authority to transport explosives and other dangerous articles over regular service routes, or over irregular routes serving specified points, may be effected at any place within 10 miles of a municipality or within 10 miles of the Post Office of an unincorporated community where interchange is permissible under existing authorities of the interlining carriers involved, subject to the "general conditions" outlined in paragraph (d) of this section.

(12) *Service at military installations.* If entrance to a military installation is through a gate within the scope of authority held by a motor carrier pursuant to a certificate or permit issued by this Commission or under decisions of the Commission relating to certificates and permits and thereafter such entrance should be closed or for some other reason beyond the carrier's control it is unable to use that entrance it may use other gates to continue serving the installation; provided, however, that the carrier shall not travel more than 20 highway miles over public highways outside the scope of its certificate or permit or the territory it is permitted to serve under decisions of the Commission relating to certificates and permits, subject to the "general conditions" outlined in paragraph (d) of this section.

(d) *General conditions.* Motor carriers holding authority from this Commission to operate over regular service routes, and those holding authority to operate over irregular routes serving specific points in the transportation of explosives and other dangerous articles, may deviate from such routes or specific points as provided in this section, without obtaining prior authority therefor, subject also to the following general conditions:

(1) Under the rules in this part, operations at an interchange point or over a deviation route may be instituted by a carrier without prior notice to the Commission, and if the period of deviation is for not more than 30 days, no notice to the Commission concerning such de-

viation is required. If the period is for more than 30 days the carrier shall give notice to the Commission, by letter, immediately after such operations are instituted, specifying the interchange point or points, if an irregular route operation, or, if a regular route operation, setting forth a complete description, by highway designations, of its authorized service route between the point where it proposes to leave such route and the point where it proposes to return thereto; and also a complete description, by highway designations, of the proposed deviation route between the point where it proposes to leave its authorized regular service route and the point where it will return thereto.

(2) The letter must be accompanied by a map on which shall be clearly shown in one color the authorized regular service route and in a different color the deviation route involved, reflecting also in each instance the official highway designations. (Regular route only.)

(3) The letter shall contain a statement to the effect that the carrier filing the notice will continue to furnish reasonable and adequate service at all points it is now authorized to serve, that it will not serve new points or points it is not now authorized to serve, and that deviation from its authorized regular service route as proposed will not enable the carrier to render a different service than that rendered under its certificate or permit, or to engage in transportation between any points where because of the circuitry of its regular route, or otherwise, such operation is not practicable. (Regular route only.)

(4) The letter shall also contain a statement indicating that a copy of such notice, accompanied by a map as indicated above, has been served by mail or in person on the following, listing by names and addresses in each instance:

(i) All carriers which, after diligent inquiries, have been found to be competitive with the carrier's proposed operation over the deviation route.

(ii) The State Board or official which has jurisdiction over motor carrier regulations in each State in or through which the proposed operations over the deviation route will be conducted.

(iii) The District Director of the Interstate Commerce Commission of each District in or through which the proposed operations over the deviation route will be conducted.

(5) The right to operate over a deviation route pursuant to these rules and regulations shall continue only so long as the carrier is performing adequate service over specifically authorized routes as directed under the Interstate Commerce Act, and only so long as the conditions set forth herein are observed.

(6) Such further terms, conditions, and limitations as the Commission, in the future, may find it necessary to impose or attach to the exercise of the privileges herein authorized.

NOTE: Unless all the general conditions specified above are complied with the letter notice will be rejected.

(e) *Protests.* Any party in interest may file a protest at any time against a deviation from an authorized regular

service route. Such protest may be in the form of a letter, with facts and information to support protestant's opinion that the carrier filing such notice cannot meet the terms of the above-specified conditions, and should reflect that a copy of the protest has been furnished to the carrier filing the notice. If such a protest is filed the Commission will give due consideration to all facts of record in the particular case, including the notice and protest, and will make a determination in accordance with those facts.

(f) *When applications required.* If a carrier desires to operate over any highway or highways as a "connecting route" or to use an "alternate route for operating convenience only" where the distance over the alternate route between the points of deviation from its authorized regular service route is less than 90 percent of the distance over the service route between the same points, it must obtain appropriate authority therefor from the Commission through filing and prosecuting an application in the usual manner, before so operating.

(g) *Irregular-route operations.* (1) Motor carriers authorized to operate over irregular routes require no specific authority from this Commission to use any highway, bridge, tunnel, or ferry in performing their authorized services.

(2) The Commission may forbid the institution of operations over a deviation route under this part, or require discontinuance of such operations if already instituted, whenever in its opinion such deviation results in inadequate service over specifically authorized routes or is unreasonable, undesirable, or otherwise repugnant to the public interest or to the rules and regulations in this part.

§ 211.2 *Prior filings.* Motor carriers lawfully utilizing any deviation facility or facilities referred to herein pursuant to prior notices filed in accordance with the provisions of any order heretofore entered under this part shall not be required to file any further notice with this Commission concerning the use of such facility or facilities: *Provided, however* That no prior filing shall operate to nullify the provision in § 211.1 (a) (1) hereof that "The rules and regulations in this part shall not apply to operations by motor common carriers of passengers within 25 miles of the city limits of New York, N. Y."

It is further ordered, That Part 216—Deviation from Authorized Routes be, and it is hereby, revoked in its entirety.

It is further ordered, That this order shall supersede the orders listed below, which are vacated as of the effective date of this order.

(a) Order March 22, 1945. Rules and regulations governing deviation from routes by regular route common carriers of passengers or property by motor vehicle.

(b) Order June 12, 1951. Use of Delaware Memorial Bridge by common and contract motor carriers subject to the Interstate Commerce Act.

(c) Order July 10, 1952. Use of Chesapeake Bay Bridge by common and contract motor carriers subject to the Interstate Commerce Act.

(d) Order August 25, 1952. Use of New Hampshire Turnpike (Toll Highway) by common and contract motor carriers subject to the Interstate Commerce Act.

(e) Order September 16, 1952. Use of New Jersey Turnpike (Toll Highway) by common and contract motor carriers of property subject to the Interstate Commerce Act.

(f) Order September 26, 1952. Deviation from authorized regular routes in the transportation of U. S. Mail by common and contract motor carriers of property subject to the Interstate Commerce Act.

(g) Order January 7, 1953. Use of Turner Turnpike (an Oklahoma Toll Highway) by common and contract motor carriers subject to the Interstate Commerce Act.

(h) Order November 3, 1953. Rules and regulations governing service at military installations by motor carriers subject to the Interstate Commerce Act.

(i) Order August 19, 1954. Use of Pennsylvania Turnpike (Toll Highway) by common and contract motor carriers subject to the Interstate Commerce Act.

(j) Order October 25, 1954. Use of West Virginia Turnpike by common and contract motor carriers subject to the Interstate Commerce Act.

(k) Order November 16, 1954. Use of a segment of New York State Thruway by common and contract motor carriers subject to the Interstate Commerce Act.

(l) Order January 21, 1955. Use of Ohio Turnpike by common and contract motor carriers subject to the Interstate Commerce Act.

And it is further ordered, That this order shall become effective August 12, 1955, unless prior thereto it is otherwise ordered by this Commission.

Notice of this order shall be given to motor carriers and the general public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing a copy thereof with the Director, Division of Federal Register.

(49 Stat. 546, as amended; 49 U. S. C. 304. Interpret or apply 49 Stat. 552, as amended, 553, as amended; 49 U. S. C. 308, 309)

By the Commission, Division 5.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 55-5443; Filed, July 6, 1955;
8:51 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter F—Merchant Ship Sales Act of 1946 [Gen. Order 60, Supp. 2, Amdt. 8]

PART 299—RULES AND REGULATIONS, FORMS, AND CITIZENSHIP REQUIREMENTS

MISCELLANEOUS AMENDMENTS

Part 299 (46 CFR 299.1 and 299.21) as amended by Supplement 2, is hereby further amended as follows:

1. Section 299.1 *Definitions* is hereby amended by changing the comma immediately following the word "paragraph" to a period and deleting all of that portion of paragraph (n) numbered "(3)" including the word "and" reading as follows: "and (3) the amount of working capital thus determined shall in no event be in excess of the sum

of (1) unrestricted cash and readily marketable securities included in total current working assets, and (1i) acceptable and verified current receivables including verified current receivables against the Maritime Administration and other Departments of the Government and unpaid tenders of 'just compensation' made by the Maritime Administration (or made by the United States Maritime Commission or the War Shipping Administration to the extent approved by the Administration) for title to or use of vessel, less the amount of all current payables to such debtors. For the purposes of this subdivision the term 'acceptable and verified current receivables' shall be deemed to mean those with respect to which there is submitted to the Administration a specific and unqualified certification by a recognized firm of public accountants to the effect that the current collectability of receivables and the adequacy of the accrual of current liabilities, as reflected on the balance sheet involved, have been verified, or, in the absence of such certification, those which may be verified by the Administration's auditors as having been collected subsequent to the date of the balance sheet involved."

2. Section 299.21 *Sales of war-built vessels to citizens of the United States* is hereby amended with respect to subparagraph (2) of paragraph (a) thereof by deleting that portion of subdivision (iii) reading as follows: "Provided, That in any instance where the applicant has no earning record for the fiscal years ended in 1939, 1940 and 1941 or where the earning record of the applicant for the fiscal years ended in 1939, 1940 and 1941 does not reflect funds available from earnings in each of such years in excess of one annual installment on the deferred portion of the purchase price of the vessel, plus interest on the deferred portion of the purchase price for one year at the rate of 3½ percent per annum, and plus the annual obligation with respect to any outstanding fixed liabilities of the applicant, (a) the purchase obligations of the applicant shall be guaranteed by a guarantor satisfactory of the Administration, or (b) the minimum net worth requirement shall be increased to 50 percent of the purchase price of the war-built vessel or such higher percentage as the Administration may require."

and in lieu thereof inserting the following: "Such requirements to be maintained on each vessel until such time as the outstanding mortgage balance on each such vessel is reduced to an amount whereby the net worth requirement exceeds such balance by at least 10 percent, thereafter the minimum net worth requirement with respect to such vessel shall be 110 percent of the outstanding balance of the mortgage on that vessel."

Since the foregoing is advantageous to mortgagors of vessels by the liberalization of the requirements of net worth and working capital in acquiring vessels under assumption of mortgage agreements, it is found to be impracticable and unnecessary to follow notice of rule-making and public procedure thereon and is considered to be exempt from the provisions of section 4 (a) of the Administrative Procedure Act. Therefore, the amend-

ments in this document shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114. Interpret or apply sec. 12, 60 Stat. 49; 50 U. S. C. app. 1745)

Dated: June 23, 1955.

[SEAL] CLARENCE G. MORSE,
Maritime Administrator.

[F. R. Doc. 55-5469; Filed, July 6, 1955; 8:57 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 969]

HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Department is giving consideration to the following recommendations, submitted by the Avocado Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969; 19 F. R. 3439; 20 F. R. 4177) regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 68 Stat. 906, 1047)

(1) That the Secretary prohibits, during the period beginning at 12:01 a. m., e. s. t., August 29, 1955, and ending at 12:01 a. m., e. s. t., April 1, 1956, the handling of avocados, grown in the production area covered by the aforesaid amended marketing agreement and order, in any container other than the following:

(a) Wooden boxes and fiberboard cartons with inside dimensions 11" x 16 $\frac{3}{4}$ " x 10"

(b) Fiberboard cartons with inside dimensions 13 $\frac{1}{2}$ " x 16 $\frac{1}{2}$ " x 3 $\frac{3}{4}$ "

(c) Fiberboard cartons with inside dimensions 13 $\frac{1}{2}$ " x 16 $\frac{1}{2}$ " x 3 $\frac{3}{4}$ "

(d) Wooden boxes with inside dimensions 13 $\frac{1}{2}$ " x 16 $\frac{1}{2}$ " x 3 $\frac{3}{4}$ " or

(e) Wooden boxes with inside dimensions 13 $\frac{1}{2}$ " x 16 $\frac{1}{2}$ " x 4 $\frac{1}{2}$ " and

(2) That the Secretary limit the sizes of avocados, grown in said production area, which may be handled in the containers set forth in (1) (b), (c), (d), and (e) hereof.

All persons who desire to submit written data, views, or arguments for consideration in connection with such proposals should do so by forwarding the same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building,

Washington 25, D. C., not later than July 20, 1955.

Dated: July 1, 1955.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-5462; Filed, July 6, 1955; 8:56 a. m.]

[7 CFR Part 1068]

IMPORTS OF GRAPEFRUIT

NOTICE OF PROPOSED RULE-MAKING

Pursuant to authority contained in the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047), notice is hereby given that the Department is giving consideration to the grade, size, quality and maturity requirements that, beginning 12:01 a. m., e. s. t., August 1, 1955, will govern the importation of grapefruit into the United States, subject to the applicable general regulations (7 CFR Part 1060; 19 F. R. 7707, 8012)

There are at present two marketing orders effective pursuant to the said act that regulate the handling of grapefruit grown in the United States. Order No. 33, as amended (7 CFR Part 933) is applicable to Florida-grown grapefruit and Order No. 55, as amended (7 CFR Part 955), governs grapefruit grown in the State of Arizona and in designated counties in California. Current regulations governing the handling of such grapefruit appear in the FEDERAL REGISTER (20 F. R. 3786; 20 F. R. 3097).

The proposal under consideration is to make applicable to all imports of grapefruit the same requirements as to grade, size, quality and maturity as those imposed under Order No. 33, as amended, on handlers of Florida grapefruit. Such requirements are as follows:

* * * no handler shall ship:

(i) Any grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 2 Russet;

(ii) Any seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(iii) Any seedless grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 112 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

The terms "U. S. No. 2 Russet," "standard pack," and "standard nailed box" shall have the same meaning as when used in the Revised United States Standards for Florida Grapefruit, §§ 51.750 to 51.790 of this title (standard nailed box—inside dimensions 12 by 12 by 24 inches) All other terms shall have the same

meaning as when used in the general regulations.

It is proposed that the Federal or Federal-State Inspection Service will be designated to perform the inspection and certification services prescribed by the general regulations.

It is further proposed that any importation which in the aggregate does not exceed five standard nailed boxes may be imported without regard to any such restrictions.

All persons who desire to submit written data, views, or arguments for consideration in connection with the foregoing proposals should do so by forwarding the same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, room 2077, South Building, Washington 25, D. C., not later than the seventh day after the publication of this notice in the FEDERAL REGISTER.

Dated: July 1, 1955.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-5461; Filed, July 6, 1955; 8:56 a. m.]

NOTICES

DEPARTMENT OF STATE

[Public Notice 149]

[Delegation of Authority 85]

ESTABLISHMENT OF INTERNATIONAL COOPERATION ADMINISTRATION AND DELEGATION OF CERTAIN RELATED FUNCTIONS

By virtue of the authority vested in me by Executive Order No. 10610, the Mutual Security Act of 1954 (63 Stat. 832), and section 4 of the act of May 26, 1949 (63 Stat. 111, 5 U. S. C. sec. 151c), and in accordance with the requirements of section 3 (a) (1) of Public Law 404, 79th Congress (60 Stat. 238, 5 U. S. C. sec. 1002 (a) (1)) establishment of the International Cooperation Administration is effected and assignment of mutual security and related functions and delegations of authority are made as follows:

1. *Establishment of the International Cooperation Administration.* There is established in the Department of State an agency which shall be known as the International Cooperation Administration. The Institute of Inter-American Affairs, the Office of Small Business provided for in section 504 (b) of the Mutual Security Act of 1954, and the International Development Advisory Board shall be a part of or attached to the International Cooperation Administration.

2. *The Director of the International Cooperation Administration.* As provided in section 103 (a) of Executive Order No. 10610 the International Cooperation Administration shall be headed by the Director of the International Cooperation Administration.

3. *Functions delegated to the International Cooperation Administration or the Director thereof.* a. The Director of the International Cooperation Administration shall, under the direction and control of the Secretary of State, carry out the following functions:

(1) The functions which section 103 (a) of Executive Order No. 10610 directs be carried out by or under the Administration or the Director;

(2) The functions under the Mutual Defense Assistance Control Act of 1951 transferred to the Secretary of State by section 101 of Executive Order No. 10610;

(3) Subject to consultation with the Secretary of Defense and the concurrence of the Secretary of State, (a) the function of having primary responsibility for preparation and presentation to the Congress of such programs of foreign military, economic, and technical assistance as may be required in the interest of the security of the United States; (b) the function of coordination referred to in section 102 (c) (1) of Executive Order No. 10575; (c) the function of determining the value of the program for any country under chapter 1 of title I of the Mutual Security Act of 1954 (relating to military assistance) and (d) the function of determining the value of the program for any country under so much of chapter 2 of title I of the Mutual Security Act of 1954 as pertains to the functions transferred to the Secretary of Defense and the Department of Defense by section 201 of Executive Order No. 10610 (relating to assistance directly to military forces)

b. Nothing in this order shall be construed to derogate from any authority responsibilities or functions previously held or exercised by the Secretary of State or the various bureaus and other offices of the Department of State.

4. *Functions reserved to the Secretary of State.* The responsibility for coordinating the functions of the International Cooperation Administration with other affairs of the Department of State is hereby reserved to the Secretary of State.

5. *Records, property, personnel, positions, and funds.* The records, property, personnel, positions, and unexpended balances of appropriations, allocations, and other funds of the Foreign Operations Administration transferred to the Department of State by section 302 of Executive Order No. 10610 are hereby placed in the International Cooperation Administration. Nothing in this section shall be construed to derogate from the authority of the Secretary of State within the terms of Executive Order No. 10610 to place elsewhere in the Department of State at a later date or dates records, property, personnel, positions and funds which relate to functions which are not to be performed by the International Cooperation Administration or the Director thereof.

6. *Successorship.* Except as may be otherwise provided from time to time, and consistent with law and with Executive Order No. 10610, the International Cooperation Administration and the Director thereof shall be deemed to be the successors of the Foreign Operations Administration and the Director thereof,

respectively, in respect to all functions required to be carried out by or under the International Cooperation Administration or the Director thereof pursuant to section 103 (a) of Executive Order No. 10610, or delegated to the Administration or the Director by the Secretary of State.

7. *Effective date.* a. This order shall become effective immediately upon the coming into effect of Executive Order No. 10610.

b. Nothing in this order shall be construed to derogate from the authority of the Secretary of State to amend this order at any time.

[SEAL]

JOHN FOSTER DULLES,
Secretary of State.

JUNE 30, 1955.

[F. R. Doc. 55-5454; Filed, July 6, 1955;
8:53 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SMALL TRACT CLASSIFICATION ORDER NO. 102

JUNE 27, 1955.

By virtue of the authority contained in the act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a) as amended and pursuant to Delegation of Authority contained in section 1.9 (c) Order No. 541 of April 21, 1954, Bureau of Land Management, it is ordered as follows:

1. Subject to valid existing rights, the public lands hereinafter described, which are situated in the Fairbanks, Alaska Land District, are hereby classified as chiefly valuable for recreation site purposes, as hereinafter indicated, for lease and sale under the Small Tract Act of June 1, 1938, supra.

FAIRBANKS AREA—FIELDING LAKE SMALL TRACT UNIT

For Lease and Sale—for Recreation Sites

U. S. Survey 3299:

Tract 1—Lots 1 to 4, inclusive;

Tract 2—Lots 5 to 15, inclusive;

Tract 3—Lots 16 to 30, inclusive;

Tract 4—Lots 1 and 2.

Comprising 32 lots aggregating 157.78 acres.

2. The classification of the above-described lands segregates them from all appropriations, including locations under the mining laws, except as to applications under the Small Tract Act and applications under the mineral leasing laws.

3. Fielding Lake is located approximately 170 miles south and east of Fairbanks and is accessible via the Richardson Highway and a two mile dry weather road leading from the Richardson Highway into the north end of this small tract area. The lots are located on the east shore of Fielding Lake. The lands are well-drained with a gentle slope toward the lake shore. Vegetative cover consists principally of low brush with a scattering of stunted dwarf black spruce. There are no public services of any kind within the area. Sewage disposal can be provided for through the use of septic tanks or cesspools.

4. The individual tracts vary in size from 2.92 to 5.66 acres. The supplemental plat of survey showing the location of each tract can be secured for \$1.00 from the Area Cadastral Engineering Office, Bureau of Land Management, Juneau, Alaska. Brochures which describe the area and contain sketch maps of the platting of the small tracts can be obtained free of charge from the Manager, Fairbanks Land Office, Fairbanks, Alaska. The appraised values of the tracts vary from \$180 to \$420 per lot as shown below. Rights-of-way, 50 feet in width, for road purposes will be reserved as shown below.

FAIRBANKS AREA—FIELDING LAKE SMALL TRACT UNIT

APPRAISAL SCHEDULE

Lot No.— U. S. S. 3299	Acre- age	50-foot easement	Advance rental 2 years	Ap- praised value
Tract 1:				
1.....	5.56	SE	\$42	\$420
2.....	4.32	SE	32	320
3.....	4.24	SE	32	320
4.....	5.24	SE	40	400
Tract 2:				
5.....	5.40	SE	40	400
6.....	5.63	SE	42	420
7.....	5.66	SE	42	420
8.....	4.04	SE	30	300
9.....	4.38	SE	34	340
10.....	4.54	SE	34	340
11.....	4.24	SE	32	320
12.....	4.25	SE	32	320
13.....	3.75	SE	28	280
14.....	4.57	SE	34	340
15.....	4.91	SE	36	360
Tract 3:				
16.....	5.15	SE	38	380
17.....	4.84	SE	36	360
18.....	4.02	SE	30	300
19.....	4.16	SE	30	300
20.....	3.94	SE	30	300
21.....	4.32	SE	32	320
22.....	4.68	SE	30	300
23.....	3.26	SE	24	240
24.....	3.35	SE	24	240
25.....	3.13	SE	24	240
26.....	2.92	E	22	220
27.....	4.00	E	30	300
28.....	4.04	E	30	300
29.....	3.57	E	26	260
30.....	2.39	N and E	18	180
Tract 4:				
31.....	26.39	Public Service Site		
32.....	3.49	E	26	260

5. Leases will be issued for a term of two years and will contain an option to purchase in accordance with 43 CFR 257.13 (Circular 1899) Lessees who comply with the general terms and conditions of their leases will be permitted to purchase their tracts at the prices listed above at any time during the term of their leases providing that they have either (a) constructed the improvements specified in paragraph 6 or (b) filed a copy of an agreement in accordance with 43 CFR 257.13 (d) Leases will not be renewable unless failure to construct the required improvements is justified under the circumstances and nonrenewal would work an extreme hardship on the lessee.

6. To maintain their rights under their leases, lessees will be required to either (a) construct substantial improvements on their lands or (b) file a copy of an agreement with their neighbors binding them to construct substantial improvements on their lands. Such improvements must conform with health, sanitation, and construction requirements of local ordinances and must, in addition, meet at least the following minimum standards. The house must

be of sound construction suitable for occasional residence, be on a permanent foundation, contain at least 120 square feet of floor space (outside measure) and contain a minimum of one door and one window. The house must be built in a workmanlike manner out of attractive materials properly finished. Adequate disposal and sanitary facilities must be installed.

7. Beginning at 10:00 a. m. on June 28, 1955, the lands will be open to filing of drawing-entry cards (Form 4-775) only by persons entitled to veterans' preference. In brief, persons entitled to such preference are (a) honorably discharged veterans who served in the armed forces of the United States for a period of at least 90 days after September 15, 1940, (b) surviving spouse or minor orphan children of such veterans through a legally authorized representative, and (c) with the consent of the veteran, the spouse of living veterans. The 90-day requirement does not apply to veterans who were discharged on account of wounds or disability incurred in the line of duty or the surviving spouse or minor children of veterans killed in the line of duty. Drawing-entry cards (Form 4-775) are available upon request from the Manager, Fairbanks Land Office, Fairbanks, Alaska.

Drawing-entry cards will be accepted if filled out in compliance with the instructions on the form and submitted to the above named official prior to 10:00 a. m. on July 19, 1955. A drawing will be held on that date to select the successful entrants who will be sent copies of the lease form, Form 4-776, with instructions as to their execution and return and as to payment of fees and rentals. All entrants will be notified of the results of the drawing.

For a period of 91 days or until the close of business on October 18, 1955, any tracts remaining unappropriated will be subject to filing in the order received by qualified veteran applicants. Such filings will be executed upon the lease form, Form 4-776.

During the 21 day period extending between 10:00 a. m. on September 27, 1955, and October 18, 1955, drawing-entry cards will be accepted from the general public on any unappropriated parcels of the subject land, however, during this 21 day period veteran priority rights still prevail. A drawing will be held at 10:00 a. m. on October 18, 1955, to select successful entrants, after which the unappropriated portions of the subject land will be open to application under this classification in order of filing. All entrants will be notified of the results of the drawing and successful entrants will be sent copies of the lease forms with instructions as to their execution. Persons claiming veterans' preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge.

The filing of the lease form, Form 4-776, must be accompanied by a filing fee of \$10.00 plus the advance rental specified above. The advance rental is determined as being a sum which amounts to 1/20th of the appraised value

of the land for each of two years under lease. The advance rental for any unexpired full lease year, if any, subsequent to the filing of the application to purchase, will be subtracted from the sale price of the land as shown above. Failure to transmit the filing fee and the advance rental with the application will render the application invalid. Advance rentals will be returned to unsuccessful applicants. All filing fees will be retained by the United States.

ROGER R. ROBINSON,
Acting Area Administrator.

[F. R. Doc. 55-5455; Filed, July 6, 1955;
8:54 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

FLUE-CURED TOBACCO

MARKETING QUOTA REFERENDUM

The Secretary of Agriculture has duly proclaimed, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, a national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1956. A referendum of farmers who were engaged in the production of the 1955 crop of flue-cured tobacco will be held pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, and applicable regulations, to determine whether such farmers are in favor of or opposed to such quota and to determine whether such farmers are in favor of or opposed to flue-cured tobacco marketing quotas for the 3-year period beginning July 1, 1956.

REGISTRATION

The operator on each farm on which flue-cured tobacco was produced in 1955 should inform a county or community committeeman of the names and addresses of all persons sharing in the proceeds of such crop in order that their names may be listed on the register of eligible voters. The eligibility to vote of any person may be challenged if his name is not recorded on the registration list.

ELIGIBILITY TO VOTE

1. All persons engaged in the production of the 1955 crop of flue-cured tobacco are eligible to vote in the referendum. Any person who shares in the proceeds of the 1955 crop of flue-cured tobacco as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or share cropper, is considered as engaged in the production of such crop of tobacco in 1955.

2. If several members of the same family participate in the production of the 1955 crop of flue-cured tobacco on a farm, the only member or members of such family who shall be eligible to vote shall be the member or members of the family who have an independent bona fide status as operator, share tenant, or share cropper, and are entitled as such to share in the proceeds of the 1955 crop.

3. No person shall be eligible to vote in any community other than the community in which he resides except as follows:

(a) Any person who resides in a community in which there is no polling place shall be eligible to vote at the polling place designated for the community nearest to the community in which he was engaged in the production of flue-cured tobacco in 1955.

(b) Any person who does not reside in or who will not be present in the county in which he engaged in the production of flue-cured tobacco in 1955 may obtain a ballot at the most conveniently located county committee office and may cast his ballot by signing his name thereto and mailing it so that the ballot reaches the county committee for the county in which he engaged in the production of tobacco in 1955 not later than the closing hour on the date of the referendum.

(c) Any person whose religious beliefs forbid his voting on the day of the referendum may, at any time within 5 days prior to the date of the referendum, obtain one ballot form from the county office of the county in which he is eligible to vote and cast his ballot by signing his name thereto and leaving it (in a sealed envelope, marked "absentee ballot") at the county office.

4. There shall be no voting by mail (except as provided in paragraph 3 above) by proxy, or by agent, but a duly authorized officer of a corporation, association, or other legal entity or a duly authorized member of a partnership, may cast its vote.

5. Persons who planted tobacco in the field in 1955 but did not harvest any tobacco on such acreage for any reason except neglect to farm the planted acreage shall be regarded as engaged in the production of tobacco in 1955 and therefore eligible to vote in the referendum. Any farmer who did not plant tobacco in the field shall not be eligible to vote.

6. No person (whether an individual, partnership, corporation, association, or other legal entity) shall be entitled to more than one vote in the referendum even though he may have been engaged in the production of tobacco on several farms in the same or in two or more communities, counties, or States in 1955.

7. In the event two or more persons were engaged in producing tobacco in 1955 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person shall be eligible to vote.

TIME AND PLACE FOR BALLOTING

The flue-cured tobacco marketing quota referendum will be held on Saturday, July 23, 1955. The place of voting and the hours which the polls will be open for voting in each community will be announced by the County ASC Committee.

Done at Washington, D. C., this 1st day of July 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-5466; Filed, July 6, 1955;
8:57 a. m.]

PEANUTS

NOTICE OF REDELEGATION OF FINAL AUTHORITY BY THE FLORIDA STATE AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEE

The Marketing Quota Regulations for the 1955 Crop of Peanuts (20 F. R. 3819) issued pursuant to the marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301-1393) provides that any authority delegated to the State Agricultural Stabilization and Conservation Committee by the regulations may be redelegated by the State committee. In accordance with section 3 (a) (1) of the Administrative Procedure Act (5 U. S. C. 1002 (a)) which requires delegations of final authority to be published in the FEDERAL REGISTER, there are set out here in the redelegations of final authority which have been made by the Florida State Agricultural Stabilization and Conservation Committee of authority vested in such committee by the Secretary of Agriculture in the regulations referred to above. There are set out below the sections of the regulations in which such authority appears and the person of the Agricultural Stabilization and Conservation Committee to whom the authority has been redelegated.

FLORIDA

Sections 729.641 (x) (5), 729.648 (d) (3), 729.653 (b) and (c), 729.657 (b), 729.657 (c), 729.659 (a), 729.661 (b) (2), and 729.662 (d)—State Administrative Officer or Acting State Administrative Officer.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 358, 359, 361-368, 372, 373, 374, 376, 388, 52 Stat. 38, 62, 63, 64, 65, 66, 68, as amended; 55 Stat. 88, as amended, 66 Stat. 27; 7 U. S. C. 1301, 1358, 1359, 1361-68, 1372, 1373, 1374, 1376, 1388)

Issued at Washington, D. C., this 30th day of June 1955.

[SEAL] EARL M. HUGHES,
Administrator
Commodity Stabilization Service.

[F. R. Doc. 55-5467; Filed, July 6, 1955;
8:57 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11308, 11309, 11438; FCC 55-750]

UMATILLA BROADCASTING ENTERPRISES
ET AL.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of John M. Carroll tr/as Umatilla Broadcasting Enterprises, Pendleton, Oregon, Docket No. 11308, File No. BP-9510; John Truhan, Pendleton, Oregon, Docket No. 11309, File No. BP-9535 Robert R. Moore, tr/as Othello Broadcasting Company, Othello, Washington, Docket No. 11438, File No. BP-9723; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 29th day of June 1955;

The Commission having under consideration the above-entitled application

of Othello Broadcasting Company for a construction permit for a new standard broadcast station to operate on 1050 kilocycles with a power of 250 watts, daytime only, at Othello, Washington; and

It appearing, that the applicant is legally, technically, financially and otherwise qualified, except as set forth below, to operate the proposed station, but that operation as proposed would involve mutually prohibitive interference with the application of John M. Carroll, for a broadcast station to operate on 1050 kilocycles with a power of 1 kilowatt, daytime only at Pendleton, Oregon, File No. BP-9510, Docket No. 11308; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated April 14, 1955 of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that the above described application of John M. Carroll, tr/as Umatilla Broadcasting Enterprises, was designated for hearing on March 16, 1955, and that because the subject application was timely filed it is entitled to be consolidated in the said proceeding; and

It further appearing, that the applicant filed a timely reply to the Commission's above-referenced letter; and

It further appearing, that the Commission, after consideration of the reply and the above matters is of the opinion that a hearing is necessary.

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing and consolidated in the proceeding in Docket No. 11308, John M. Carroll, tr/as Umatilla Broadcasting Enterprises, upon the following issues:

1. To determine the areas and populations which would be served by the operation of the subject proposed station, and the availability of other primary service to such areas and populations.

2. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the applications of the Othello Broadcasting Company and the Umatilla Broadcasting Enterprises, BP-9510, would provide the more fair, efficient and equitable distribution of radio service.

3. To determine, in the light of the evidence adduced with respect to the foregoing issues, which of the operations proposed by the Othello Broadcasting Company and the Umatilla Broadcasting Enterprises, BP-9510, would better serve the public interest.

It is further ordered, That Issues 2 and 3 are made a part of the hearing in Docket No. 11308 with respect to the Umatilla Broadcasting Enterprises; and

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether funds available to the applicant will give

reasonable assurance that the proposal set forth in the application will be effectuated.

Released: July 1, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5457; Filed, July 6, 1955;
8:54 a. m.]

[Docket No. 11310; FCC 55M-586]

NORTHERN CORP. (WMEX)

NOTICE OF PRE-HEARING CONFERENCE

In re application of The Northern Corporation (WMEX), Boston, Massachusetts, Docket No. 11310, File No. BR-833; for renewal of license.

Notice is hereby given that an informal pre-hearing conference in the above-entitled proceeding will be held in the offices of this Commission, Washington, D. C., at 10:00 o'clock a. m., on Thursday, July 7, 1955.

Dated this 30th day of June 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5458; Filed, July 6, 1955;
8:55 a. m.]

[Docket No. 11371; FCC 55-727]

DEEP SOUTH BROADCASTING Co. (WSLA)

MEMORANDUM OPINION AND ORDER
AMENDING ISSUES

In re application of Deep South Broadcasting Company (WSLA) Selma, Alabama, Docket No. 11371, File No. BMPCT-2100; for modification of construction permit.

1. The Commission has before it for consideration the following pleadings: (a) The petition of the Department of Defense (herein called Defense) for leave to intervene, filed May 16, 1955; (b) the petition of the Air Transport Association of America (herein called ATA) to intervene, filed May 17, 1955; (c) the petition of the Aircraft Owners and Pilots Association (herein called AOPA) for leave to intervene, filed May 17, 1955; (d) the answer of Deep South Broadcasting Company (herein called WSLA) to the foregoing petitions filed May 23, 1955; (e) the reply of Defense to the WSLA answer, filed May 31, 1955; (f) the petition to intervene and to enlarge issues, filed May 19, 1955 by Capitol Broadcasting Company (herein called WCOV) (g) a further petition to enlarge issues, filed June 6, 1955 by WCOV; (h) the petition to intervene, filed May 17, 1955 by WKY Radiophone Company (herein called WKY) (i) the petition to enlarge issues, filed May 19, 1955 by WKY (j) the answer of WSLA to pleadings (f), (h) and (i) filed May 23, 1955; (k) comment and opposition to pleading (f) filed by Chief, Broadcast Bureau, on June 1, 1955; (l) the WSLA answer to pleading (k), filed on June 7, 1955; (m)

and the reply to pleading (k) filed by WCOV on June 6, 1955.¹ Some brief background remarks are believed desirable.

2. On April 27, 1955, the Commission designated for hearing the WSLA application for modification of its construction permit (Channel 8, Selma, Alabama) to move its transmitter site to a location 50 miles from Selma and 23 miles from Montgomery, to locate its main studio at the transmitter site, and to increase the height of its antenna structure to 1993 feet above ground. The Commission found the applicant to be legally and technically qualified but, because of the opposition of the Airspace Subcommittee of the Air Coordinating Committee and other public interest considerations, designated the application for hearing on the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed in the above-entitled application may constitute a menace to air navigation.

2. To determine, in light of the proposed move of transmitter site 50 miles from Selma and 23 miles from Montgomery, Alabama, whether the proposed operation is designed to serve the particular needs of Selma, Alabama and its surrounding areas.

3. To determine whether the showing made by the applicant to locate its main studio at the proposed transmitter site is sufficient to warrant a waiver by the Commission of the provisions of § 3.613 (a) of the Commission's rules.

4. To determine whether, on the basis of the evidence adduced with respect to the above issues, a grant of the above-entitled application would serve the public interest, convenience and necessity. Following the issuance of this order, the parties noted in the first paragraph filed the petitions with which this Memorandum Opinion deals.

3. We believe the matters presented for resolution by the foregoing pleadings, in each case, admit of but one conclusion, and therefore, no extended discussion of the material set out in the pleadings is called for. Thus, with respect to the petition to intervene by Defense, ATA and AOPA, there is no question that these requests should be granted. WSLA is incorrect in its assertion that these parties are merely objecting to the erection of any 2000-foot tower and not to this specific one. The pleading of Defense is particularly in point as showing that the latter is objecting to this specific tower, armed with specific facts directed to that tower and air operations in the area in which it is to be erected. In view of the obvious interests of these parties in safe navigation in the area involved and the representations as to the aid which they will be to the Commission in resolving issues (1) and (4) their requests for intervention are granted.

4. Similarly, there is no question, in the circumstances of this case, of the propriety of allowing WKY, licensee of

AM Station WSFA and permittee of TV Station WSFA-TV in Montgomery, and WCOV permittee of UHF Station WCOV-TV, Montgomery, to intervene. See Allegheny Broadcasting Corporation, FCC 54-940. Indeed, we note that WSLA does not oppose the intervention of these two parties.

5. Turning to the petitions to enlarge the issues, we have noted the arguments of WCOV and WKY as to the alleged failure of WSLA to demonstrate its financial qualifications. While several of the arguments made appear to us to be without merit, others, such as the ability of WSLA's two main stockholders, William E. Bennis, Jr. and William J. Brennan, either individually or through the Vulcan Tower Company (which they own) to construct the proposed tower and transmitter and studio buildings,² do appear to raise substantial questions. Accordingly, we have decided to include the following issue: To determine whether the applicant is financially qualified to construct, own, and operate the proposed station, including the question whether William E. Bennis, Jr., and William J. Brennan are financially qualified to effect that portion of the construction for which they have committed themselves through the Vulcan Tower Company, and individually, through the supplying of land and buildings.³

6. Turning to the last issue requested—the "economic injury" one, our decision here follows the pattern set by our action in recent protest cases (see, e. g., In re Application of Radio Tifton (FCC 55-725) In re Application of American Southern Broadcasters (FCC 55-726) In re Application of WJR, The Goodwill Station, Inc. (FCC 55-561; Mimeo 19795) We have determined to include such an issue because, as we have stated in the cited cases, the policy and legal questions raised thereby can be most appropriately resolved, if resolution be necessary after the facts are adduced, on the basis of the factual picture presented. We have examined the "economic injury" issues proposed by WCOV, and, finding them to be too broad, have rephrased them. We believe the burden of proceeding and of proof with respect to the issue now included should be placed upon intervenor WCOV.

7. Accordingly, it is ordered, This 29th day of June 1955, that the petitions of

¹ We note that at present there is some question as to who will construct the transmitter and studio building; it appears, in view of the fact that Bennis and Brennan intend to buy the property in question and apparently to lease it to the applicant, that they also intend to build the studio building. In the circumstances of this case (particularly, the transmitter-studio location in an unpopulated area), it is appropriate to determine who will construct these structures, and if it is the two main stockholders of the applicant, whether they are financially qualified to do so.

² We have not included any specific issue as to the cost of the proposed tower and its suitability from a structural standpoint since we believe such an issue is subsumed in the one set out above—namely, whether the two noted stockholders have sufficient funds to construct a structurally suitable tower.

the Department of Defense, the Air Transport Association of America, the Aircraft Owners and Pilots Association, WKY Radiophone Company, and Capitol Broadcasting Company to intervene in the subject proceeding are granted; *It is further ordered*, That the issues in the proceeding are enlarged to include the following:

(4) To determine whether the applicant is financially qualified to construct, own, and operate the proposed station, including the question whether William E. Bennis, Jr. and William J. Brennan are financially qualified to effect that portion of the construction for which they have committed themselves through the Vulcan Tower Company, and individually, through the supplying of land and buildings.

(5) To determine whether the grant of the WSLA application would, from an economic standpoint, so affect the operation of WCOV-TV as to cause either the deterioration of that station's programming or to deprive the public of that station's program service totally and if either of the above results be shown, whether the public interest would be better served by retention of the program service now provided by WCOV-TV or by the authorization of the service proposed by the applicant.

It is further ordered, That the burden of proof as to issue (5) is placed upon intervenor WCOV-TV.

Released: July 1, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[P. R. Doc. 55-5459; Filed, July 6, 1955;
8:55 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6603]

BALTIMORE GAS AND ELECTRIC CO. AND
SUSQUEHANNA TRANSMISSION COMPANY
OF MARYLAND

NOTICE OF ORDER AUTHORIZING DISPOSITION
AND MERGER OR CONSOLIDATION OF
FACILITIES

JUNE 29, 1955.

Notice is hereby given that on June 24, 1955, the Federal Power Commission issued its order adopted June 22, 1955, authorizing disposition and merger or consolidation of facilities in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[P. R. Doc. 55-5427; Filed, July 6, 1955;
8:47 a. m.]

[Docket No. E-6518]

IDAHO POWER CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF
PREFERRED STOCK

JUNE 29, 1955.

Notice is hereby given that on June 23, 1955, the Federal Power Commission issued its order adopted June 22, 1955,

¹ As to several of these pleadings, requests were made to accept late filing. Such requests are herewith granted.

authorizing issuance of preferred stock in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5428; Filed, July 6, 1955;
8:47 a. m.]

[Docket No. G-2503]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF OPINION NO. 282 AND ORDER

JUNE 29, 1955.

Notice is hereby given that on June 24, 1955, the Federal Power Commission issued its opinion and order adopted June 20, 1955, issuing a certificate of public convenience and necessity and permitting abandonment of facilities in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5421; Filed, July 6, 1955;
8:46 a. m.]

[Docket No. G-3207]

DRILLING AND EXPLORATION CO., INC.

NOTICE OF ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

JUNE 29, 1955.

Notice is hereby given that on June 16, 1955, the Federal Power Commission issued its order adopted June 15, 1955, amending order granting a certificate of public convenience and necessity to eliminate Twin Oil Corporation as a party to the certificate granted in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5422; Filed, July 6, 1955;
8:46 a. m.]

[Docket Nos. G-3505, G-8756]

PHILLIPS PETROLEUM CO.

NOTICE OF FINDINGS AND ORDER

JUNE 29, 1955.

Notice is hereby given that on June 27, 1955, the Federal Power Commission issued its findings and order adopted June 22, 1955, in the above-entitled matters, issuing certificates of public convenience and necessity in Docket No. G-8756, and permitting and approving abandonment of service in Docket No. G-3505.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5429; Filed, July 6, 1955;
8:47 a. m.]

[Docket No. G-5917]

LONE STAR PRODUCING CO.

NOTICE OF FINDINGS AND ORDER

JUNE 29, 1955.

Notice is hereby given that on June 27, 1955, the Federal Power Commission

issued its findings and order adopted June 22, 1955, in the above-entitled matter, issuing a certificate of public convenience and necessity and dismissing application, in part, for the sale by Applicant to Lone Star Gas Company at the outlet of the Kelly-Snyder Gasoline Plant located in the Kelly-Snyder Field, Scurry County, Texas.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5430; Filed, July 6, 1955;
8:47 a. m.]

[Docket Nos. G-8180, G-8310]

S. N. ELLIOTT AND G. B. NORMAN

NOTICE OF FINDINGS AND ORDERS

JUNE 29, 1955.

In the matters of S. N. Elliott, Docket No. G-8180; G. B. Norman, Docket No. G-8310.

Notice is hereby given that on June 17, 1955, the Federal Power Commission issued its findings and orders adopted June 15, 1955, in the above-entitled matters, issuing certificates of public convenience and necessity, and authorizing abandonment of service to Hope Natural Gas Company.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5423; Filed, July 6, 1955;
8:46 a. m.]

[Docket No. G-8678]

NORTHERN NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER

JUNE 29, 1955.

Notice is hereby given that on June 24, 1955, the Federal Power Commission issued its findings and order adopted June 22, 1955, permitting and approving abandonment of facilities in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5431; Filed, July 6, 1955;
8:48 a. m.]

[Docket No. G-8789]

COLORADO OIL AND GAS CORP.

NOTICE OF FINDINGS AND ORDER

JUNE 29, 1955.

Notice is hereby given that on June 20, 1955, the Federal Power Commission issued its findings and order adopted June 16, 1955, issuing a certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5424; Filed, July 6, 1955;
8:47 a. m.]

[Docket No. ID-1215]

EDWARD SMITH

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

JUNE 29, 1955.

Notice is hereby given that on June 16, 1955, the Federal Power Commission issued its order adopted June 15, 1955, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5425; Filed, July 6, 1955;
8:47 a. m.]

[Project No. 82]

ALABAMA POWER CO.

NOTICE OF ORDER APPROVING REVISED EXHIBIT AND ADJUSTING ANNUAL CHARGES

JUNE 29, 1955.

Notice is hereby given that on June 28, 1955, the Federal Power Commission issued its order adopted June 22, 1955, approving revised exhibit, and adjusting annual charges in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5432; Filed, July 6, 1955;
8:48 a. m.]

[Project No. 2102]

WARRIOR RIVER ELECTRIC CO-OPERATIVE ASSN.

NOTICE OF ORDER ISSUING LICENSE (MAJOR)

JUNE 29, 1955.

Notice is hereby given that on June 16, 1955, the Federal Power Commission issued its order adopted June 15, 1955, issuing license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5426; Filed, July 6, 1955;
8:47 a. m.]

[Project No. 2183]

GRAND RIVER DAM AUTHORITY

NOTICE OF ORDER ISSUING LICENSE (MAJOR)

JUNE 29, 1955.

Notice is hereby given that on June 22, 1955, the Federal Power Commission issued its order adopted June 22, 1955, issuing license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-5433; Filed, July 6, 1955;
8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 67]

MOTOR CARRIER APPLICATIONS

JULY 1, 1955.

Protests, consisting of an original and two copies, to the granting of an application must be filed with the Commission within 30 days from the date of publication of this notice in the *FEDERAL REGISTER* and a copy of such protest served on the applicant. Each protest must clearly state the name and street number, city and state address of each protestant on behalf of whom the protest is filed (49 CFR 1.240 and 1.241). Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding unless an oral hearing is held. In addition to other requirements of Rule 40 of the general rules of practice of the Commission (49 CFR 1.40) protests shall include a request for a public hearing, if one is desired, and shall specify with particularity the facts, matters and things, relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected. Requests for an oral hearing must be supported by an explanation as to why the evidence cannot be submitted in the forms of affidavits. Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, pre-hearing conference, taking of depositions, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of publication of this notice in the *FEDERAL REGISTER*.

Except when circumstances require immediate action, an application for approval, under section 210a (b) of the act, of the temporary operation of motor carrier properties sought to be acquired in an application under section 5 (a) will not be disposed of sooner than 10 days from the date of publication of this notice in the *FEDERAL REGISTER*. If a protest is received prior to action being taken, it will be considered.

No. MC 2136 Sub 11, filed May 9, 1955, CLEMAN'S TRUCK LINE, INC., 815 East Pennsylvania Avenue, South Bend, Ind. Applicant's attorney: James L. Beattey, Suite 1021-1029, 130 East Washington Street, Indianapolis 4, Ind. For authority to operate as a *common carrier* over regular routes, transporting: *General commodities*, except livestock, perishables, and commodities in bulk, (1) between South Bend, Ind., and Elkhart, Ind., over U. S. Highway 20, serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Grand Rapids, Mich., and Indianapolis, Ind., (b) Battle Creek, Mich., and South Bend, Ind., (c) junction U. S. Highways 6 and 31 and South Bend, Ind., and (d) alternate route operations between Elkhart, Ind., and junction U. S. Highways 6 and 31, near Lapaz, Ind., (2) between South Bend, Ind., and junction U. S. Highways 112 and 131 at Mottville, Mich., from South Bend over U. S. High-

way 20 to Indiana Highway By-Pass 112, thence over Indiana Highway By-Pass 112 to junction Indiana Highway 112, thence over Indiana Highway 112 to Indiana Highway 19, thence over Indiana Highway 19 to the Michigan-Indiana State line, thence over Michigan Highway 205 to junction U. S. Highway 112, thence over U. S. Highway 112 to junction U. S. Highway 131, and return over the same route, serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Grand Rapids, Mich., and Indianapolis, Ind., (b) Battle Creek, Mich., and South Bend, Ind., (c) junction U. S. Highways 131 and 112 and White Pigeon, Mich., and (d) junction U. S. Highways 6 and 31 and South Bend, Ind., (3) between Battle Creek, Mich., and Three Rivers, Mich., from Battle Creek over Michigan Highway 78 to junction Michigan Highway 60, thence over Michigan Highway 60 to junction U. S. Highway 131 at Three Rivers, and return over the same route, serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Grand Rapids, Mich., and Indianapolis, Ind., (b) Battle Creek, Mich., and South Bend, Ind., (c) Battle Creek, Mich., and junction U. S. Highway 12 and Michigan Highway 96 at Galesburg, Mich., and (d) alternate route operations between Battle Creek, Mich., and Plainwell, Mich., (4) between Battle Creek, Mich., and junction U. S. Highways 112 and 131, from Battle Creek over Michigan Highway 78 to junction U. S. Highway 112, thence over U. S. Highway 112 to junction U. S. Highway 131, and return over the same route, serving no intermediate points, and serving the junction of U. S. Highway 112 and 131 for joinder purposes only, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Grand Rapids, Mich., and Indianapolis, Ind., (b) Battle Creek, Mich., and South Bend, Ind., (c) junction U. S. Highways 131 and 112 and White Pigeon, Mich., (d) Battle Creek, Mich., and junction U. S. Highways 12 and Michigan Highway 96 at Galesburg, Mich., and (e) alternate route operations between Battle Creek, Mich., and Plainwell, Mich. *General commodities*, except livestock, and except perishables, and commodities in bulk, serving to and from points in St. Joseph County, Ind., as off-route points in connection with carrier's regular route operations between Grand Rapids, Mich., and Indianapolis, Ind., over U. S. Highway 31, and between junction U. S. Highways 6 and 31 and South Bend, Ind., over U. S. Highway 6. *Class A and B explosives*, between Indianapolis, Ind., and Louisville, Ky., from Indianapolis over U. S. Highway 31 to Sellersburg, Ind., thence over U. S. Highway 31E through Jeffersonville, Ind., to Louisville (also from Sellersburg over U. S. Highway 31W through New Albany, Ind., to Louisville) and return over the same route, serving the intermediate points of Austin, Columbus, Edinburg, Franklin, Greenwood,

Jeffersonville, New Albany, Scottsburg, Southport and Whiteland, Ind., and the off-route points of Seymour, Ind. Applicant is authorized to conduct operations in Indiana, Kentucky, and Michigan.

No. MC 5908 Sub 19, filed June 9, 1955, TRUCK TRANSPORT COMPANY, a corporation, 8350 Dix Avenue, Detroit 9, Mich. Applicant's attorney: Robert A. Sullivan, 2606 Guardian Building, Detroit 26, Mich. For authority to operate as a *common carrier* transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving the site of the Ford Motor Company plant located north of Detroit, Mich., at Mound Road and 17-Mile Road, Sterling Township, Mich., as an off-route point in connection with carrier's regular route operations between Pontiac, Mich., and Cincinnati, Ohio, over U. S. Highways 10, 24 and 25. Applicant is authorized to conduct operations in Indiana, Michigan and Ohio.

No. MC 7768 Sub 10, filed June 20, 1955, A. J. WEIGAND, INC., 1608 N. Tuscarawas Ave., Dover, Ohio. Applicant's attorney: Richard H. Brandon, Hartman Building, Columbus 15, Ohio. For authority to operate as a *contract carrier* over irregular routes, transporting: *Steel and steel products*, from Dover, and New Philadelphia, Ohio, to points in that part of Pennsylvania east of U. S. Highway 11, except Wilkes-Barre, Sunbury, and Harrisburg, Pa., and *machinery and machinery parts* used in the manufacture of steel and steel products, from points in that part of Pennsylvania east of U. S. Highway 11, except Wilkes-Barre, Sunbury, and Harrisburg, Pa., to the above-described origin points. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, and West Virginia.

No. MC 8681 Sub 33, filed June 20, 1955, WESTERN AUTO TRANSPORTS, INC., 430 South Navajo Street, Denver 23, Colo. Applicant's attorney: Stockton, Linville and Lewis, The 1650 Grant Street Bldg., Denver 3, Colo. For authority to operate as a *common carrier* over irregular routes, transporting: (1) *Motor trucks*, in initial movements, in driveway and truckaway service; (2) *motor trucks*, in secondary movements, in truckaway service; and (3) *trucks and tractors*, other than those designed to be used in transportation of persons or property, between Littleton, Colo., and all points in the United States. Applicant is authorized to conduct operations in Arizona, California, Colorado, Idaho, Indiana, Michigan, Missouri, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

No. MC 19201 Sub 83, filed June 17, 1955, PENNSYLVANIA TRUCK LINES, INC., 110 South Main Street, W. E., Pittsburgh, Pa. Applicant's attorney: Gilbert Nurick, Commerce Bldg. (P. O. Box 432) Harrisburg, Pa. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities*, including *commodities of unusual value*, *commodities in bulk*; and those

requiring special equipment, but excluding Class A and B explosives, and household goods as defined by the Commission, in service auxiliary to, or supplemental of, rail service of The Pennsylvania Railroad Company, between Wheeling, W. Va., and Bellaire, Ohio, from Wheeling over West Virginia Highway 2 to Benwood, W. Va., thence over the Bellaire-Benwood Bridge to Bellaire, Ohio, and return over the same route, serving the intermediate point of Benwood. Applicant states the route will be alternate to present operations from Wheeling, W. Va., to Powhatan Point, Ohio. Applicant is authorized to conduct operations in Indiana, Michigan, Ohio, Pennsylvania and West Virginia.

No. MC 28439 Sub 61, filed June 22, 1955, DAILY MOTOR EXPRESS, INC., Penn and Pitt Streets, Carlisle, Pa. Applicant's attorney: James E. Wilson, Continental Bldg., Fourteenth at K, NW., Washington 5, D. C. For authority to operate as a common carrier over irregular routes, transporting: *Agricultural implements, agricultural machinery, and parts thereof*, from Shelbyville, Ill., Battle Creek, Mich., Cleveland, Ohio, Springfield, Ohio, South Bend, Ind., and Charles City, Iowa, to points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Virginia, and West Virginia; *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, Ohio, Kentucky, North Carolina, Tennessee, Wisconsin, Pennsylvania, West Virginia, Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, Georgia, and Massachusetts.

No. MC 28439 Sub 62, filed June 22, 1955, DAILY MOTOR EXPRESS, INC., Pitt and Penn Streets, Carlisle, Pa. Applicant's attorney: James E. Wilson, Continental Bldg., Fourteenth at K Streets, NW., Washington 5, D. C. For authority to operate as a common carrier over irregular routes, transporting: *Agricultural implements, agricultural machinery, and parts thereof*, from Sandwich, Ill. and Coldwater, Ohio, to points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Virginia, and West Virginia; *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, Ohio, Kentucky, North Carolina, Tennessee, Wisconsin, Pennsylvania, West Virginia, Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, Georgia, and Massachusetts.

No. MC 43215 Sub 35, filed June 17, 1955, BOYD TRUCK LINES, INC., 201 West 21st St., Kansas City, Mo. Applicant's attorney: Walter V. Huston, 4105 Main St., Kansas City 11, Mo. For authority to operate as a common carrier over an alternate or connecting route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined

by the Commission, commodities in bulk, and those requiring special equipment, between junction U. S. Highway 50N (U. S. Highway 77) and Kansas Highway 150 at or near Marion, Kans., and junction U. S. Highway 50S and Kansas Highway 150 at or near Elmdale, Kans., over Kansas Highway 150, serving no intermediate points, and serving the termini for joinder purposes only, for operating convenience only, in connection with regular route operations between Kansas City, Mo., and Liberal, Hutchinson, and Wichita, Kans. Applicant is authorized to conduct operations in Kansas and Missouri.

No. MC 43442 Sub 9, filed June 17, 1955, TRANSPORTATION SERVICE, INC., 1946 Bagley Avenue, Detroit, Mich. For authority to operate as a common carrier transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Ford Motor Company Sterling Plant, Sterling Township, Macomb County, Mich., as an off-route point in connection with carrier's regular route operations (1) between Flint, Mich., and Cincinnati, Ohio; (2) between Wapakoneta, Ohio, and Lancaster, Ohio; (3) between Fostoria, Ohio, and Springfield, Ohio; (4) between Carey, Ohio, and Springfield, Ohio; (5) between Detroit, Mich., and Willow Run, Mich., and (6) between junction of U. S. Highway 25 and Michigan Highway 17 and Willow Run, Mich. Applicant is authorized to conduct operations in Michigan and Ohio.

No. MC 52629 Sub 35, filed June 24, 1955, HUBER & HUBER MOTOR EXPRESS, INC., 970 South Eighth Street, Louisville 3, Ky. For authority to operate as a common carrier over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, between the junction of U. S. Highway 60 and 421 and Lexington, Ky., operating from the junction of U. S. Highway 60 with U. S. Highway 421 at a point approximately 2 miles east of Frankfort, Ky., thence over U. S. Highway 421 to Lexington, Ky., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with the carrier's regular route operations (1) between Louisville, Ky., and Lexington, Ky., (2) between Frankfort, Ky., and Louisville, Ky., and (3) between Frankfort, Ky., and Versailles, Ky. Applicant is authorized to conduct operations in Illinois, Kentucky, Indiana, Georgia and Tennessee.

No. MC 52629 Sub 36, filed June 24, 1955, HUBER & HUBER MOTOR EXPRESS, INC., 970 South Eighth Street, Louisville 3, Ky. For authority to operate as a common carrier over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, and commodities requiring special equipment, from Stanford, Ky. to Clinton, Tenn., operating from Stanford, over

U. S. Highway 27 to junction of Tennessee Highway 62, thence over Tennessee Highway 62 to junction of Tennessee Highway 61, thence over Tennessee Highway 61 to Clinton, and return over the same route, serving no intermediate points, as an alternate route, for operating convenience only, in connection with the carrier's regular route operations between Lawrenceburg, Ky. and Knoxville, Tenn. Applicant is authorized to conduct operations in Illinois, Kentucky, Indiana, Georgia and Tennessee.

No. MC 52964 Sub 4, filed April 15, 1955, FREIGHT TRANSIT COMPANY, a corporation, 1225 Dartmouth Avenue, S. E., Minneapolis 4, Minn. Applicant's representative: A. R. Fowler, Associated Motor Carriers Tariff Bureau, 2288 University Avenue, St. Paul 14, Minn. For authority to operate as a common carrier over irregular routes, transporting: *Feed ingredients and fertilizers*, from the site of the Allied Chemical Plant, near LaPlatte, Nebr., to points in the Minneapolis-St. Paul, Minn. Commercial Zone as defined by the Commission.

No. MC 61396 Sub 53, filed June 23, 1955, HERMAN BROS., INC., 1215 Farnam St., P. O. Box 1237, Omaha 2, Nebr. Applicant's attorney: Frank E. Rambo, 127 N. 34th St., Omaha 3, Nebr. For authority to operate as a common carrier over irregular routes, transporting: *Liquid molasses*, in bulk, in tank vehicles, from Omaha, and Nebraska City, Nebr., to points in Iowa, Kansas, and Nebraska. Applicant does not presently hold any authority to transport the commodity specified in this application.

No. MC 63426 Sub 1, filed June 22, 1955, WILLARD G. BROWN, 536 Summit Avenue, Hackensack, N. J. Applicant's attorney: John Alden Christie, 210 Main Street, Hackensack, N. J. For authority to operate as a contract carrier, over irregular routes, transporting: *Such commodities as are usually dealt in by a retail department store*, between Elizabeth, and Hackensack, N. J., on the one hand, and, on the other, points in Wayne, Luzerne, Carbon, Monroe, Northampton, Pike, Lehigh, Montgomery, and Bucks Counties, Pa. Applicant is authorized to conduct operations in New Jersey, New York, and Pennsylvania.

No. MC 70296 Sub 3, filed June 2, 1955, (amended) S. A. BINGAMAN, F. LEON BINGAMAN, and MARION S. BINGAMAN, doing business as PITTSBURGH-LATROBE MOTOR EXPRESS, Corner North and Linden Avenues, P. O. Box 352, Latrobe, Pa. For authority to operate as a common carrier, over regular routes, transporting: *General commodities*, except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Latrobe, Pa., and Seward, Pa., over unnumbered highway from Latrobe to junction Pennsylvania Highway 982, thence over Pennsylvania Highway 982 to Youngstown, Pa., thence return over Pennsylvania Highway 982 to junction U. S. Highway 30, thence over U. S. Highway 30 to Ligonier, Pa., thence over Pennsylvania Highway 711 to Seward, and return over same route, and between

Latrobe, Pa., and Jones Mills, Pa., over above specified route from Latrobe to Ligonier, Pa., thence over Pennsylvania Highway 711 to Donegal, Pa., thence over Pennsylvania Highway 31 to Jones Mills, and return over the same route, serving all intermediate points on said routes, and all off-route points located in the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair, Westmoreland County, Pa. Applicant is authorized to conduct regular route operations in Pennsylvania and irregular route operations in Ohio, Pennsylvania, and West Virginia.

No. MC 73756 Sub 4, filed March 25, 1955, published on page 3661, issue of May 25, 1955, and amended June 22, 1955, DAVID GINSBURG, SARAH GINSBURG SINGER, TILLIE MOORE AND MORRIS SINGER, a partnership, doing business as WASTE MOTOR HAULAGE COMPANY, South Brandywine Ave., Downingtown, Pa. Applicant's attorney: Paul F. Barnes, 801 I. B. M. Bldg., Philadelphia, Pa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Paper board, fibre board, and pulp board*, from Downingtown, Pa., to points in Rhode Island, North Carolina, South Carolina, West Virginia, New York, Massachusetts, Detroit, Mich., Cincinnati, Columbus, and Youngstown, Ohio, St. Louis, Mo., and Chicago, Ill., and *waste paper and empty skids*, used in the transportation of the commodities specified above, on return movements. Applicant is authorized to conduct operations in Washington, D. C., Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Ohio, Massachusetts and Pennsylvania.

NOTE: Applicant is agreeable to the revocation of all duplicating authority if and when the authority herein applied for is granted.

No. MC 74647 Sub 9, filed June 6, 1955 (Amended) PASCO SALVINO doing business as P. SALVINO TRANSPORT, 5245 East Marginal Way, Seattle, Wash. Applicant's representative: Joseph O. Earp, 1912 Smith Tower, Seattle 4, Wash. For authority to operate as a *contract carrier* over regular routes, transporting: *Pulpboard and paperboard*, in sheets on skids, or in rolls, from Bellingham, Wash. to Portland, Oregon City and Milwaukee, Oreg., operating (1) from Bellingham over U. S. Highway 99 to Portland, and (2) from Bellingham over U. S. Highway 99 to Tacoma, Wash., thence over U. S. Highway 99 to junction with Washington Highway 5H, thence over Washington Highway 5H to Tenino, Wash., thence over U. S. Highway 99 to Portland, Oreg., thence over U. S. Highway 99E or over Oregon Highway 43 to Oregon City and Milwaukee, Oreg., and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in Washington.

No. MC 74721 Sub 53, filed June 21, 1955, MOTOR CARGO, INC., 700 Carroll St., Akron, Ohio. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Ave., N. W., Washington 6, D. C. For authority to operate as a *common carrier* over alternate or connecting routes, trans-

porting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between (1) Madison, Wis., and the junction of U. S. Highway 16 and Wisconsin Highway 30 approximately 17 miles west of Milwaukee, Wis., over Wisconsin Highway 30, serving no intermediate points, for operating convenience only, in connection with regular route operations between Youngstown, Ohio, and Minneapolis, Minn., Beloit, Wis., and Madison, Wis., Milwaukee, Wis., and the junction of U. S. Highways 12 and 16; and Milwaukee, Wis., and Madison, Wis., and (2) Janesville, Wis., and Delavan, Wis., over Wisconsin Highway 11, serving no intermediate points, for operating convenience only, in connection with (1) regular route operations between Youngstown, Ohio, and Minneapolis, Minn., and (2) alternate route operations between Beloit, Wis., and Milwaukee, Wis. RESTRICTION: Service over the above routes shall be subject to the limitation that no shipments shall be transported between any two points, both of which are west of the Illinois-Indiana State line, except that shipments may be transported from Minneapolis and St. Paul, Minn., to Chicago, Ill., and points in Illinois within the Chicago, Ill. Commercial Zone, as defined by the Commission. Applicant is authorized to conduct operations in Delaware, Illinois, Indiana, Iowa, Maryland, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Wisconsin, and the District of Columbia.

No. MC 74721 Sub 54, filed June 21, 1955, MOTOR CARGO, INC., 700 Carroll St., Akron, Ohio. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Ave. NW, Washington 6, D. C. For authority to operate as a *common carrier* over a regular route, and over an alternate or connecting route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between the junction of U. S. Highway 21 and Ohio Highway 176, in Richfield Township, Ohio, and the junction of Ohio Highways 57 and 82, at a point approximately six miles southeast of Elyria, Ohio, over U. S. Highway 21 from junction Ohio Highway 176 to junction Ohio Highway 82 at or near Brecksville, Ohio, thence over Ohio Highway 82 to junction Ohio Highway 57, and return over the same route, serving no intermediate points, and (2) between the junction of U. S. Highway 20 and Ohio Highway 10, at a point approximately five miles southwest of Elyria, Ohio, and the junction of Ohio Highways 10 and 57, at a point approximately three miles southeast of Elyria, Ohio, over Ohio Highway 10, serving no intermediate points, for operating convenience only, in connection with regular route operations between Youngstown, Ohio, and Minneapolis, Minn., and Medina, Ohio, and Lorain, Ohio. Applicant is authorized to conduct operations in Delaware, Illinois, Indiana, Iowa, Maryland, Minnesota, Missouri,

New Jersey, New York, Ohio, Pennsylvania, Wisconsin, and the District of Columbia.

No. MC 79737 Sub 8, filed March 31, 1955, published on page 3200 of issue of May 11, 1955, (amended) published on page 3973 of issue of June 8, 1955, (further amended June 15, 1955) SOUTHWESTERN TRANSPORTATION CO., INC., 816 Water Street, Canon City, Colo. For authority to operate as a *common carrier* over irregular routes, transporting: *General commodities, including household goods as defined by the Commission, commodities in bulk* (other than petroleum and petroleum products) and *commodities requiring special equipment*, but excepting those of unusual value and Class A and B explosives, between points in Fremont County, Colo., on the one hand, and, on the other, points in Colorado, excluding service from or to Denver, Colo., and Pueblo, Colo.

No. MC 84690 Sub 15, filed April 27, 1955, NORTHERN PACIFIC TRANSPORT COMPANY, a corporation, 176 E. 5th Street, St. Paul 1, Minn. Applicant's attorney: Roger J. Crosby, 909 Smith Tower, Seattle 4, Wash. For authority to operate as a *common carrier* over regular routes, transporting: *Passengers and their baggage, and express, mail and newspapers*, in the same vehicle with passengers, (1) between Auburn, Wash., and Tacoma, Wash., from Auburn over State Highway 5 (Peasley Canyon Road) to junction U. S. Highway 99, thence over U. S. Highway 99 to Tacoma, and return over the same route, serving no intermediate points, as an alternate or connecting route for operating convenience only, in connection with carrier's regular route operations between Auburn and Tacoma, Wash., (2) between Puyallup, Wash., and Tacoma, Wash., from Puyallup over U. S. Highway 410 (River Road) to Tacoma, and return over the same route, serving no intermediate points, as an alternate or connecting route, for operating convenience only, in connection with carrier's regular route operations between (a) Auburn, Puyallup, Wash., which is a portion of carrier's regular route operations between Auburn and Tacoma, Wash., and (b) the applied-for alternate route in (1) above, (3) between Auburn, Wash., and Buckley, Wash., from Auburn over U. S. Highway 410 via Enumclaw, Wash., (also from Auburn over Washington Highway 5), to Buckley, and return over the same route, serving the intermediate point of Enumclaw, Wash., and (4) between Buckley, Wash., and Sumner, Wash., from Buckley over U. S. Highway 410 (also from Buckley over Washington Highway 5) to Sumner, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in Montana, Washington and Wyoming.

No. MC 88161 Sub 47, filed June 20, 1955, INLAND PETROLEUM TRANSPORTATION COMPANY, INC., 5047 Colorado Avenue, Seattle, Wash. For authority to operate as a *common carrier* over irregular routes, transporting: *Acids and chemicals*, including, but not limited to those described by the Commission in Ex Parte No. MC 45, *chemicals*

in solution, and *liquid glue*, in bulk, in tanks or tank vehicles, between points in Washington, Oregon and Idaho. Applicant is authorized to conduct operations in Washington and Idaho.

No. MC 88391 Sub 1, filed June 16, 1955, FRANKLIN P. McMILLEN, Box 19, Craigsville, Pa. Applicant's attorney: Jerome Solomon, 1325-27 Grant Bldg., Pittsburgh, Pa. For authority to operate as a *contract carrier* over irregular routes, transporting: *Brick, tile, sewer pipe, and clay products*, from points in Armstrong County, Pa. to points in Pennsylvania, Virginia, West Virginia, Maryland, New Jersey, Connecticut, Massachusetts, New York, Delaware, Rhode Island, and the District of Columbia, *empty containers or other such incidental facilities* (not specified) used in transporting the above-named commodities on return. Applicant is authorized to conduct operations in Pennsylvania and New York.

No. MC 95084 Sub 27, filed June 20, 1955, HOVE TRUCK LINE, a corporation, Stanhope, Iowa. Applicant's attorney: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. For authority to operate as a *common carrier* over irregular routes, transporting: *Roofing and building materials*, from Marseilles, Ill., to points in Nebraska and South Dakota, and points in Minnesota on and south of U. S. Highway 12. Applicant is not now authorized to transport the commodities specified in this application.

No. MC 96498 Sub 9, filed September 20, 1954, published in the November 17, 1954 issue on page 7425 (reopened for further hearing) FRED BONIFIELD, ALFRED BONIFIELD, and REUBEN BONIFIELD, doing business as BONIFIELD BROTHERS TRUCK LINES, 2nd and Yasoda Streets, Metropolis, Ill. Applicant's attorney: B. W. La Tourette, Suite 1230, Boatmen's Bank Building, 314 North Broadway, St. Louis 2, Mo. For authority to operate as a *common carrier* over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, (1) between Dixon Springs, Ill., and Harrisburg, Ill., from Dixon Springs over Illinois Highway 145 to junction Illinois Highway 34 at Mitchellville, Ill., thence over Illinois Highway 34 to Harrisburg, and return over the same route, serving no intermediate points, as an alternate or connecting route, in connection with regular route operations between (a) Harrisburg, Ill., and Vienna, Ill., (b) Carbondale, Ill., and Golconda, Ill., (c) Harrisburg, Ill., and St. Louis, Mo., and (d) Benton, Ill., and Shawneetown, Ill., (2) between Golconda, Ill., and junction Illinois Highways 1 and 13, from Golconda over Illinois Highway 146 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, and return over the same route, serving no intermediate points, as an alternate or connecting route, in connection with regular route operations between (a) Carmi, Ill., and junction Illinois Highways 13 and 1, (b) Carbon-

dale, Ill., and Golconda, Ill., and (c) Benton, Ill., and Shawneetown, Ill., (3) between Effingham, Ill., and East St. Louis, Ill., over U. S. Highway 40, serving no intermediate points, as an alternate or connecting route, in connection with regular route operations between (a) Chicago, Ill., and Paducah, Ky., (b) Harrisburg, Ill., and St. Louis, Mo., and (c) East St. Louis, Ill., and Marion, Ill., and (4) between junction U. S. Highway 45 and Illinois Highway 145 and junction Illinois Highways 145 and 146, over Illinois Highway 145, serving no intermediate points, as an alternate or connecting route, in connection with regular route operations between (a) Chicago, Ill., and Paducah, Ky., and (b) Carbondale, Ill., and Golconda, Ill. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky and Missouri.

No. MC 102308 Sub 20, filed June 22, 1955, INLAND FREIGHT LINES, a corporation, 1370 South 2nd West, Salt Lake City, Utah. Applicant's attorney: Lynn S. Richards, 716 Newhouse Building, Salt Lake City 1, Utah. For authority to operate as a *common carrier* over regular routes, transporting: *General commodities*, including *Class A and B explosives*, but excluding those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between (1) San Mateo, Calif., and San Jose, Calif., over U. S. Highway 101, (2) San Francisco, Calif., and San Jose, Calif., over By-Pass U. S. Highway 101, and (3) Oakland, Calif., and San Jose, Calif., over California Highway 17 from Oakland to junction California Highway 9 to San Jose, and return over the same route; serving all intermediate points on said routes. Applicant is authorized to conduct operations in California, Nevada, and Utah.

No. MC 102806 Sub 4, filed June 10, 1955, PETROLEUM TRANSPORTATION, INCORPORATED, E. Davis St., Box 232, Gastonia, N. C. Applicant's attorney: R. Gregg Cherry, 101-105 Commercial Bldg., Gastonia, N. C. For authority to operate as a *common carrier* over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Knox and Hamilton Counties, Tenn. to points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, and Transylvania Counties, N. C. Applicant is authorized to conduct operations in North Carolina and South Carolina.

No. MC 103378 Sub 40, filed June 6, 1955 (amended) PETROLEUM CARRIER CORPORATION, a corporation, 369 Margaret St., Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. For authority to operate as a *common carrier* over irregular routes, transporting: *Phosphoric acid*, in bulk, in tank vehicles, from points in Charleston County S. C., to points in Chatham County, Ga. Applicant does not presently hold any authority to transport the commodity specified in this application.

No. MC 103378 Sub 41, filed June 21, 1955, PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jackson-

ville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Bldg., Jacksonville 2, Fla. For authority to operate as a *common carrier*, over irregular routes, transporting: *Tall oil rosin*, in bulk, in tank vehicles, from Panama City, Fla., to Valdosta, Ga.

No. MC 105265 Sub 28, filed June 13, 1955, DENVER-AMARILLO EXPRESS, a Texas corporation, 200 N. Fillmore, Amarillo, Tex. Applicant's attorney: Sterling E. Kinney, Amarillo Building, Suite 630, Amarillo, Tex. For authority to operate as a *common carrier*, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, from Taos, N. Mex., to Penasco, N. Mex., operating from Taos over U. S. Highway 64 to junction New Mexico Highway 3, thence over New Mexico Highway 3 to junction New Mexico Highway 75, thence over New Mexico Highway 75 to Penasco, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in Colorado, New Mexico, Oklahoma, and Texas.

No. MC 106400 Sub 13, filed June 9, 1955, KAW TRANSPORT COMPANY, 517 N. Sterling, Sugar Creek, Mo. Applicant's attorney: Henry M. Shughart, 914 Commerce Bldg., Kansas City, Mo. For authority to operate as a *common carrier* over irregular routes, transporting: *Asphalt, asphaltic cement, asphalt cutback, asphaltic oil, coal spray oil, road oil, and all types of petroleum products requiring heat in transit*, in bulk, in tank vehicles, between Neodesha, Kans., including the facilities of the Standard Oil Company in or adjacent thereto, and Coffeyville, Kans., including the facilities of Co-Operative Refining Association in or adjacent thereto, on the one hand, and, on the other, points in Missouri. Applicant is authorized to conduct operations in Iowa, Missouri, and Kansas.

No. MC 106965 Sub 80, filed June 16, 1955, M. I. O'BOYLE & SON, INC., doing business as O'BOYLE TANK LINES, 817 Michigan Ave., NE, Washington, D. C. Applicant's attorney: Dale C. Dillon, Suite 944 Washington Bldg., Washington, 5, D. C. For authority to operate as a *common carrier* over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Hopewell, Va. to points in New York, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia.

No. MC 108298 Sub 18, filed June 20, 1955, ELLIS TRUCKING CO., INC., 430 Kentucky Avenue, Indianapolis, Ind. Applicant's attorney: Kirkwood Yockey, Morris Plan Building, Suite 806, 108 East Washington St., Indianapolis 4, Ind. For authority to operate as a *common carrier* transporting: *General commodities*, except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of Ford Motor Company, Chassis Parts Division, Sterling Plant, located at the intersection of Mound Road and Seventeen Mile Road, Sterling Township, Macomb County, Mich., as an off-route

point in connection with carrier's regular route operations to and from Detroit, Mich., over U. S. Highways 10 and 112. Applicant is authorized to conduct operations in Arkansas, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio and Tennessee.

No. MC 108837 Sub 5, filed June 23, 1955, JOHN K. WOOD & SON, INC., 626 East Ohio Street, Indianapolis, Ind. Applicant's attorney: Claude H. Anderson, 632 Illinois Building, 17 W Market Street, Indianapolis 4, Ind. For authority to operate as a *common carrier* over irregular routes, transporting: *Food products*, in liquid or semi-solid state, in bulk, in tank trucks (not including the transportation of petroleum products, milk or the ingredients or manufactured products thereof, acids, chemicals, liquid sugars or syrups, wines or liquors, or coal tar products) between points in Indiana, Illinois and Ohio.

No. MC 109451 Sub 49, filed June 3, 1955, ECOFF TRUCKING, Inc., Childersburg, Ala. Applicant's attorney: Maurice F. Bishop, 325-329 Frank Nelson Bldg., Birmingham, Ala. For authority to operate as a *contract carrier* over irregular routes, transporting: *Acids*, in bulk, in tank vehicles, (1) from Copperhill, Tenn., to points in North Carolina, South Carolina, Tennessee, Georgia, Alabama, Kentucky and Mississippi; and (2) from the Coosa Pines Plant of the Tennessee Corporation located on Ordinance Road approximately four miles northeast of Childersburg, Ala., to points in Georgia; and *anhydrous ammonia* and *nitrogen solutions*, in bulk, in tank vehicles, from Ketona, Ala., to points in Florida, Georgia, Tennessee and Mississippi. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio and Wisconsin.

No. MC 109471 Sub 10, filed June 24, 1955, R. A. CONYES, doing business as R. A. CONYES TANK LINES, P. O. Box 6, 13685 San Pablo Ave., San Pablo, Calif. Applicant's attorney: Marvin Handler, 465 California St., San Francisco 4, Calif. For authority to operate as a *common carrier* over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from pipe-line terminals located in San Bernardino and Imperial Counties, Calif., to points in Nevada. Applicant is authorized to conduct operations in Nevada and California.

No. MC-109640 Sub 11, (corrected) filed May 16, 1955, and amended June 9, 1955, BICE TRUCK LINES, INC., 505 East Main, Laurel, Mont. Applicant's attorney: Jerome Anderson, Electric Building, Billings, Mont. For authority to operate as a *common carrier* over regular routes, transporting: *Refined petroleum and petroleum products*, in bulk, in tank trucks, from Bozeman, Mont., and the Yellowstone Pipeline Terminal located within the Commercial Zone of Bozeman, Mont., to West Yellowstone, Mont., and filling stations, gasoline stations, and bulk plants located within the commercial zone of West Yellowstone, Mont., over U. S. Highway 191. Applicant is authorized to conduct operations in Wyoming, Montana, and Idaho.

No. MC 110436 Sub 13, filed April 20, 1955, and published on page 2009, issue of May 4, 1955, amended May 31, 1955, and further amended June 22, 1955, ROBERTSON TRANSPORTS, INC., 5700 Polk, Houston, Tex. Applicant's attorney: Harry W. Patterson, San Jacinto Bldg., Houston 2, Tex. For authority to operate as a *common carrier* over irregular routes, transporting: (1) *Petroleum lubricating oil*, in bulk, in tank vehicles, (a) from Baytown, Tex., to points within a five mile radius of Oil Center, Jal, Eunice, Carlsbad, Gage, Deming, Hobbs, Gallup, and Farmington, N. Mex. including each of the named points, and (b) from Port Arthur, Tex., to points within a five mile radius of Jal, Eunice, and Monument, including each of the named points, (2) *Coal tar products*, in bulk, in tank vehicles, from Daingerfield and Lone Star, Tex., to Jefferson and Ouchita Counties, Ark., (3) *Caustic soda*, in bulk, in tank vehicles, from Lake Charles, La., to the plant of East Texas Pulp and Paper Company, near Evadale, Tex., and (4) *Robsin sizing*, from De Ridder and De Quincy, La., to the plant of the East Texas Pulp and Paper Company, near Evadale, Tex. Applicant does not hold permanent interstate authority from this Commission.

No. MC 111431 Sub 2, filed June 14, 1955, JACK HUDSON, INC., 2622 Franklin St., Terre Haute, Ind. Applicant's attorney: Louis E. Smith, 316-318 Chamber of Commerce Bldg., Indianapolis 4, Ind. For authority to operate as a *contract carrier* over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the site of the bulk storage plant of the Socony-Vacuum Oil Company at or near New Goshen, Ind., to points in Illinois on and south of Illinois Highway 9 and on and east of U. S. Highway 51. Applicant is authorized to conduct operations in Illinois and Indiana.

No. MC 112593 Sub 7, filed May 12, 1955, SIDNEY W JOHNSON, doing business as SOUTHWESTERN FILM SERVICE, P. O. Box 97, Taos, N. Mex. Applicant's attorney: O. Russell Jones, 54½ E. San Francisco Street, Southwest Corner Plaza, Santa Fe, N. Mex. For authority to operate as a *common carrier*, over a regular route, transporting: *Motion picture film and still picture film; radio sound producing recordings, television sound producing recordings and film, reproducing devices, and amplifying devices; vending machines; supplies, accessories, and materials used in connection with the operation of theaters and at other similar places of exhibition, except television sets; and empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, and *newspapers*, between Denver, Colo., and Shiprock, N. Mex., from Denver over U. S. Highway 285 to junction U. S. Highway 160, thence over U. S. Highway 160 to junction U. S. Highway 550, at Durango, Colo., thence over U. S. Highway 550 to Shiprock, and return over the same route, serving all intermediate points between the Colorado-New Mexico State line and Shiprock, including Shiprock. Applicant is authorized to conduct operations in Colorado and New Mexico.

No. MC 113410 Sub 3, filed June 6, 1955, DAHLEN TRANSPORT, INC., 875 N. Prior, St. Paul 4, Minn. For authority to operate as a *common carrier* over irregular routes, transporting: *Anhydrous ammonia, nitrogen solutions, nitrogen solids and other fertilizer and fertilizer ingredients* in liquid or compounded form, *liquid sulphur and sulphur products*, from points in Ramsey and Dakota Counties, Minn., to points in North Dakota, South Dakota, Nebraska, Kansas, Iowa, Missouri, Illinois, Indiana, and Wisconsin, and to Ports of Entry in Minnesota on the International Boundary between the United States and Canada; *empty containers or other such incidental facilities* (not specified) used in transporting the above-named commodities on return.

No. MC 113779 Sub 14, filed May 24, 1955, YORK INTERSTATE TRUCKING, INC., 8222 Market Street Road, P. O. Box 9686, Houston 15, Texas. For authority to operate as a *common carrier* over irregular routes, transporting: *Ethylene glycol, diethylene glycol monoethanolamine, diethanolamine, and triethanolamine*, in bulk, in tank vehicles, from points in the Orange, Tex. Commercial Zone as defined by the Commission, to all points in Arkansas, Mississippi, New Mexico, and Oklahoma, except Oklahoma City, and *contaminated shipments* on return. Applicant is authorized to conduct operations in Louisiana and Texas.

No. MC 113843 Sub 9, filed June 3, 1955, REFRIGERATED FOOD EXPRESS, INC., 8 Commonwealth Pier, Boston 10, Mass. Applicant's attorney: James Michael Walsh, 8 Commonwealth Pier, Boston 10, Mass. For authority to operate as a *common carrier* over irregular routes, transporting: *Canned and preserved foodstuffs, and canned goods*, from Baltimore, Crisfield, Kingston, Marion Station and Havre de Grace, Md. and points in Delaware, Maryland, and Virginia on and south of U. S. Highway 40 and east of the Susquehanna River and Chesapeake Bay to points in Connecticut, Massachusetts, and Rhode Island. Applicant states that it is authorized to transport the subject commodities by tacking and by this application seeks only a more direct route to render the service. Applicant is authorized to conduct operations in Connecticut, Massachusetts, Rhode Island, New York, Maryland, Delaware, and Virginia.

No. MC 113843 Sub 10, filed June 20, 1955, REFRIGERATED FOOD EXPRESS, INC., 8 Commonwealth Pier, Boston, Mass. Applicant's attorney: James Michael Walsh, 8 Commonwealth Pier, Boston 10, Mass. For authority to operate as a *common carrier* over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by packing houses* as defined by the Commission, from Frankfort, Ind. to points in Connecticut, Massachusetts, Rhode Island, Pennsylvania, New York, New Jersey, Maryland, Delaware, Virginia, West Virginia and the District of Columbia. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire,

New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia and the District of Columbia.

No. MC 113855 Sub 6, filed June 20, 1955, INTERNATIONAL TRANSPORT, INC., 2303 Third Avenue North, Fargo, N. Dak. Applicant's attorneys: Van Osdel & Foss, 506 First National Bank Building, Fargo, N. Dak. For authority to operate as a *common carrier* over irregular routes, transporting: *Hides, pelts, skins*, including *switches and tails*, fresh, green and green salted (not tanned or dressed) from the International Boundary between the United States and Canada at the ports of entry at Portal, N. Dak., and Sweetgrass, Mont., to Chicago, Ill. Applicant is not authorized to transport the commodities specified above.

NOTE: Operations are to be in Foreign Commerce only; applicant states that it is authorized to transport machinery on the out-bound trip and that this application covers the return trip.

No. MC 115131 Sub 1, filed June 23, 1955, WILLIS H. CLARK, doing business as CLARK TRANSPORTATION CO., Summerfield, Kans. Applicant's attorney: J. Wm. Townsend, 204-206 Central Building, Topeka, Kans. For authority to operate as a *common carrier* over irregular routes, transporting: *Lime, crushed rock and crushed stone, chat, sand, and gravel*, in bulk, in dump trucks, between points in Nemaha, Marshall, Washington, Jackson, Pottawatomie, Riley Clay, Republic, Cloud, Jewell, Mitchell, Smith, and Osborne Counties, Kans., on the one hand, and, on the other, points in Pawnee, Gage, Jefferson, Thayer, Nuckolls, Webster, and Franklin Counties, Nebr.

No. MC 115389 Sub 1, filed June 20, 1955, CLIFFORD A. MANGUS, doing business as MANGUS COMPANY, 224 South Oak Street, Lusk, Wyo. For authority to operate as a *common carrier* over irregular routes, transporting: *Ore*, in bulk, in dump trucks, from points in Niobrara, Converse, Albany and Goshen Counties, Wyo. to Edgemont, S. Dak.

No. MC 115391, filed June 6, 1955, MAE GENSIMORE, R. D. #1, Tyrone, Pa. Applicant's representative: G. Donald Bullock, Box 146, Wyncote, Pa. For authority to operate as a *common carrier* over irregular routes, transporting: *Lime, limestone, lime products, and limestone products*, from Bellefonte, Pa., and points in Marion, Patton, Benner, and Spring Townships, Centre County, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Virginia, West Virginia, and the District of Columbia.

No. MC 115414, filed June 17, 1955, GEORGE H. NASHOLD, JR., David St., Frederica, Del. Applicant's attorney: Samuel W. Earnshaw, The Munsey Building, Washington, D. C. For authority to operate as a *contract carrier* over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump or hopper type vehicles, from Baltimore, (including Curtis Bay) Md., to points in Delaware.

No. MC 115414 Sub 1, filed June 17, 1955, GEORGE H. NASHOLD, JR., Da-

vid St., Frederica, Del. Applicant's attorney: Samuel W. Earnshaw, The Munsey Building, Washington, D. C. For authority to operate as a *contract carrier* over irregular routes, transporting: *Crushed stone*, in bulk, in dump or hopper type vehicles, between points in Chester and Delaware Counties, Pa., on the one hand, and, on the other, points in Delaware; and *stone, washed sand, and gravel*, in bulk, in dump or hopper type vehicles, between points in Caroline, Cecil, Dorchester, Harford, Kent, Queen Annes, Somerset, Talbot, Wicomico and Worcester Counties, Md., on the one hand, and, on the other, points in Delaware, together with *motion to dismiss* on the ground that applicant's operations are those of a bona fide private carrier under Part II of the Interstate Commerce Act.

No. MC 115418, filed June 20, 1955, PHILIP M. SIDELL, 97 Addington Street, W Roxbury, Mass. For authority to operate as a *contract carrier* over irregular routes, transporting: *Bedding, mattresses, studio couches, folding beds, springs, and headboards*, from Waltham, Mass., to points in Maine, New Hampshire, Rhode Island, Connecticut, and New York.

No. MC 115422, filed June 21, 1955, JAMES V. RUNYON, doing business as RUNYON TRANSFER CO., Route 4—Woodridge Rd., Sciotoville, Ohio. Applicant's attorney: Richard H. Brandon, Hartman Building, Columbus, Ohio. For authority to operate as a *contract carrier* over irregular routes, transporting: *Such commodities as are usually dealt in by retail stores or establishments* (other than food stores) from Portsmouth, Ohio to points in Greenup and Lewis Counties, Ky., and *undelivered and trade-in shipments of the above commodities* on return.

No. MC 115424, filed June 22, 1955, KENNETH H. CORZINE, Dongola, Ill. Applicant's attorney: Delmar O. Koebel, 406 Missouri Ave., East St. Louis, Ill. For authority to operate as a *common carrier* over irregular routes, transporting: *Packing crates*, from points in Pulaski County, Ill. to St. Louis, Mo.

No. MC 115424 Sub 1, filed June 22, 1955, KENNETH H. CORZINE, Dongola, Ill. Applicant's attorney: Delmar O. Koebel, 406 Missouri Ave., East St. Louis, Ill. For authority to operate as a *common carrier* over irregular routes, transporting: *Lumber* from points in Union, Pulaski and Johnson Counties, Ill. to points in Lake, Porter, and La Porte Counties, Ind.

CORRECTION

Docket No. MC 52986 Sub 8, Northwest Freight Lines, Inc., published issue of May 4, 1955. Add Jerome Anderson, Attorney at Law, Electric Building, Billings, Mont., as co-counsel for subject applicant.

APPLICATIONS OF MOTOR CARRIERS OF PASSENGERS

No. MC 3647 Sub 188, filed June 24, 1955, PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 80 Park Place, Newark, N. J. Applicant's attorney: Winslow B. Ingham, Associate General Solicitor, Public Service Coordi-

nated Transport, Law Department, Public Service Terminal, Newark 1, N. J. For authority to operate as a *common carrier* over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, in special round trip seasonal operations beginning and ending at Newark, N. J., and extending to Roosevelt Raceway, Westbury, Long Island, N. Y., during the authorized racing seasons of each year at said raceway. Applicant is authorized to conduct (1) regular route operations in Delaware, New Jersey, New York, and Pennsylvania, (2) charter operations in the District of Columbia, New Jersey, New York, Pennsylvania, and Virginia, (3) seasonal operations in New Jersey, New York, and Pennsylvania, and (4) special operations in Connecticut, New Jersey, New York, and Pennsylvania.

No. MC 96535 Sub 2, filed June 22, 1955, EDWARD A. WILSON, doing business as WILSON'S TAXI, Barryville, N. Y. For authority to operate as a *common carrier* over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, between Shohola, Pa., and Highland Lake, N. Y., (1) from Shohola across the Delaware River to junction New York Highway 55 at Barryville, N. Y., thence over New York Highway 55 to Eldred, N. Y., and thence over unnumbered highway (Highland Lake Road) to Highland Lake; and (2) from Shohola across the Delaware River to junction New York Highway 97 at Barryville, thence over New York Highway 97 to junction unnumbered highway (Yulan Road), thence over unnumbered highway (Yulan Road) to Yulan, N. Y., thence over unnumbered highway (Eldred Road) to Eldred, and thence as specified above to Highland Lake, and return over these same routes, serving all intermediate points. RESTRICTION: Authority requested herein to be restricted to traffic originating at and destined to the station of the Erie Railroad at Shohola, Pa. Applicant is authorized to conduct operations New York and Pennsylvania.

No. MC 108219 Sub 1, filed June 16, 1955, GREY GOOSE BUS LINES LIMITED, Union Bus Depot, Winnipeg, Manitoba, Canada. Applicant's attorney: Aikins, MacAulay, Moffat, Dickson, Hinch & McGavin, Somerset Bldg., Portage Ave., Winnipeg 1, Canada. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage, and mail and newspapers* in the same vehicle with passengers, between the Port Entry on the International Boundary between the United States and Canada near Pine Creek, Minn., and Roseau, Minn., from the Port of Entry on the International Boundary between the United States and Canada near Pine Creek, over Minnesota Highway 89 to junction Minnesota Highway 11, and thence over Minnesota Highway 11 to Roseau, and return over the same route, serving the intermediate points of Pine Creek, Ross and Fox, Minn. Applicant is authorized to conduct operations in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Wisconsin and Wyoming.

APPLICATIONS UNDER SECTION 5 AND
210a (b)

No. MC-F-5842 published in the December 1, 1954 issue of the *FEDERAL REGISTER* on page 7921. Supplemental application filed June 20, 1955 to show the following persons in control of vendee: J. A. Roswick, A. B. Wanke, E. J. Roswick, H. E. Walz, John Dutt, Walter Kunz and F. C. Swanson.

No. MC-F-6008. Authority sought for control and merger by ALAMO MOTOR LINES, 428 E. Cevallos St., San Antonio, Tex., of the operating rights and property of HEARN MOTOR FREIGHT LINES, INC., P. O. Box 877, Seagraves, Tex. Applicants' attorney: Maynard F. Robinson, 715 Frost National Bank Bldg., San Antonio, Tex. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions, including household goods, as a common carrier over regular routes, including routes between Welch, Tex., and Brownfield, Tex., between Seagraves, Tex., and Lubbock, Tex., between Hobbs, N. Mex., and Wink, Tex., between Amarillo, Tex., and Hooker, Okla., between Hooker, Okla., and Johnson, Kans., and between Liberal, Kans., and Perryton, Tex., serving certain intermediate and offroute points; *general commodities*, with certain exceptions, not including household goods, between Liberal, Kans., and Beaver, Okla., serving the intermediate point of Forgan, Okla., *dangerous explosives*, over regular routes, including routes between Welch, Tex., and Brownfield, Tex., between Seagraves, Tex., and Lubbock, Tex., between Hobbs, N. Mex., and Wink, Tex., and between Amarillo, Tex., and Lubbock, Tex., serving all intermediate and certain offroute points; *general commodities*, with certain exceptions, including household goods, over an alternate route for operating convenience only, from Liberal, Kans., to Woods, Kans., *general commodities*, with certain exceptions, including household goods, over irregular routes, between Amarillo, Tex., the site of Amarillo Air Force Base, and the site of Pantex Ordnance Plant, near Amarillo, Tex., Alamo Motor Lines is authorized to operate in Texas. Application has been filed for temporary authority under section 210a (b).

No. MC-F-6010. Authority sought for control by RYDER SYSTEM, INC., 1642 Northwest 21st Terrace, Miami, Fla., of the operating rights and property of MILLER MOTOR LINE OF NORTH CAROLINA, INCORPORATED, Winston Road, Greensboro, N. C., and for acquisition by J. C. PARKER, A. E. GREENE and R. N. REEDY, Miami, Fla., of control of the operating rights and property through the transaction. Applicants' attorney: Clarence D. Todd, 944 Washington Bldg., Washington 5, D. C. Operating rights sought to be controlled: *Cottonseed oil, soya bean oil, petroleum and petroleum products, liquid glue, lubricating oil, synthetic resins, peanut oil, alcohol, ketone, acetone*, and liquid and dry chemicals, including *acetic acid* and *sulphuric acid*, as a common carrier,

over irregular routes, from, to and between certain points in North Carolina, Virginia, Georgia, South Carolina, Tennessee, West Virginia, Maryland, Alabama, Florida, Louisiana, and Mississippi. Ryder System, Inc., is not a motor carrier, but owns all of the capital stock of Great Southern Trucking Company, which is authorized to operate in Alabama, Georgia, South Carolina, North Carolina, Florida and Tennessee. Application has not been filed for temporary authority under section 210a (b).

[SEAL]

EAROLD D. McCoy,
Secretary.[F. R. Doc. 55-5445; Filed, July 6, 1955;
8:52 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 1, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the *FEDERAL REGISTER*.

LONG-AND-SHORT-HAUL

FSA No. 30808: Sodium phosphates to Cincinnati, Ohio. Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on phosphates, sodium, disodium, and trisodium, carloads, from Jeffersonville and New Albany, Ind., to Cincinnati, Ohio.

Grounds for relief: Circuitous routes.

FSA No. 30809: Roofing materials—Official to Southern Territory. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on building and roofing materials and slate, carloads, from points in official, including Illinois territory to points in southern territory.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Agent Boin's tariff I. C. C. No. A-1067.

FSA No. 30810: Sodium phosphates—Eastern points to Old Fort, N. C. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on sodium phosphate, di-sodium phosphate and tri-sodium phosphate, carloads, from specified points in Delaware, New Jersey and Pennsylvania to Old Fort, N. C.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 79 to Agent Boin's I. C. C. A-968.

FSA No. 30811. All freight—Eastern points to Augusta, Ga. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on specified commodities, in mixed carloads, from New York, N. Y., and Philadelphia, Pa., to Augusta, Ga.

Grounds for relief: Motor-truck competition and circuitry.

Tariff: Supplement 9 to Agent Boin's I. C. C. A-1030.

FSA No. 30812: Blankets and related articles, from, to and between the southwest. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on blankets, pillow cases and various other

related articles, made of cotton or mixtures of cotton, rayon, nylon, wool, etc., carloads, and less-than-carload, from, to, and between points in southwestern territory.

Grounds for relief: Short-line distance formula and

Tariff: Supplement 157 to Agent Kratzmeir's I. C. C. 3987 and one other tariff.

FSA No. 30813: Phosphate rock—Florida to Little Rock and North Little Rock, Ark. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on phosphate rock, ground or not ground, in carloads, as more fully described in the application, from Bartow, Fla., and other specified Florida points to Little Rock and North Little Rock, Ark.

Grounds for relief: Circuitous routes.

Tariff: Supplement 129 to Atlantic Coast Line Railroad tariff I. C. C. B-3232 and one other tariff.

FSA No. 30814. Phosphate rock—Florida to Pennsylvania. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on phosphate rock, ground or not ground, in carloads as more fully described in the application, from Bartow, Fla., and other specified origins in Florida to Curry, Martinsburg, and Ore Hill, Pa.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 129 to Atlantic Coast Line Railroad tariff I. C. C. B-3232 and one other tariff.

FSA No. 30815: Grain—Warrenton, Ga., to Mobile, Ala. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on grain, namely, barley, corn, oats, rye, soybeans, and wheat, in bulk, carloads, from Warrenton, Ga., to Mobile, Ala., for export.

Grounds for relief: Circuitous routes.

Tariff: Supplement 90 to Agent C. A. Spanninger's I. C. C. 1325.

FSA No. 30816: Fresh meats and packing house products from Nutwood, Ind. Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on fresh and cured meats, lard, sausage, etc., carloads, from Nutwood, Ind., to specified points in Maine, Maryland, Massachusetts, New York, Pennsylvania, Virginia, and West Virginia.

Grounds for relief: Circuitous routes.

Tariff: Supplement 125 to Agent Hinsch's I. C. C. 4542.

FSA No. 30817: Fine coal—Illinois and Indiana to Chicago District. Filed by Pennsylvania Railroad Company, for itself and on behalf of the Illinois Central Railroad Company. Rates on bituminous fine coal, carloads, from Mines in Illinois and Indiana on the Pennsylvania Railroad to Chicago, Ill., and points in the Chicago district.

Grounds for relief: Market competition and maintenance of origin rate relations with lines on other lines in Illinois and Indiana. Circuitous routes.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.[F. R. Doc. 55-5442; Filed, July 6, 1955;
8:51 a. m.]

